

187

SITE-SPECIFIC AGRICULTURAL RESOURCE MANAGEMENT ACT OF 1993

Y 4. AG 8/1:103-12

Site-Specific Agricultural Resource...

HEARINGS

BEFORE THE

SUBCOMMITTEE ON ENVIRONMENT, CREDIT, AND RURAL DEVELOPMENT

OF THE

COMMITTEE ON AGRICULTURE

HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

ON

H.R. 1440

APRIL 1, 20, AND 21, 1993

Serial No. 103-12

DEPARTMENT OF DOCUMENTS
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CONTENTS

APRIL 1, 1993

	Page
H.R. 1440, a bill to amend the Soil Conservation and Domestic Allotment Act to provide for comprehensive site-specific resource management plans on land used for the production of agricultural commodities, and for other purposes	3
Barrett, Hon. Bill, a Representative in Congress from the State of Nebraska, opening statement	16
Combest, Hon. Larry, a Representative in Congress from the State of Texas, opening statement	15
English, Hon. Glenn, a Representative in Congress from the State of Oklahoma, opening statement	1
Sarpalius, Hon. Bill, a Representative in Congress from the State of Texas, prepared statement	17

WITNESSES

Berg, Norman A., Washington representative, Soil and Water Conservation Society	18
Prepared statement	43
Marks, Robbin S., senior program associate, Natural Resources Defense Council	23
Prepared statement	49
Warman, Timothy W., director, Federal policy, American Farmland Trust	25
Prepared statement	67

SUBMITTED MATERIAL

Bowker, Dennis, resource conservationist, Napa County Resource Conservation District, Napa, CA, letter of April 13, 1993	86
--	----

APRIL 20, 1993

Combest, Hon. Larry, a Representative in Congress from the State of Texas, opening statement	94
English, Hon. Glenn, a Representative in Congress from the State of Oklahoma, opening statement	93

WITNESSES

Bridge, Galen, Acting Chief, Soil Conservation Service, U.S. Department of Agriculture	95
Prepared statement	123
King, Jerry, chairman, environmental committee, National Pork Producers Council	110
Prepared statement	130
McKenzie, Donald F., resource associate, Wildlife Management Institute	113
Prepared statement	136

APRIL 21, 1993

Allard, Hon. Wayne, a Representative in Congress from the State of Colorado, opening statement	143
English, Hon. Glenn, a Representative in Congress from the State of Oklahoma, opening statement	143

WITNESSES

	Page
Barnes, Robert F., executive vice president, American Society of Agronomy, Crop Science Society, and Science Society of America	187
Prepared statement	301
Calvani, Jerry, chairman, National Cotton Council of America, also on behalf of the National Association of Wheat Growers; National Corn Growers Association; American Soybean Association; and United States Rice Producers Group	164
Prepared statement	230
Chancey, T. Ray, national office director, American Agriculture Movement, Inc	149
Prepared statement	212
Cook, Kenneth A., vice president, policy, Center for Resource Economics	186
Prepared statement	292
Geddes, Roland B., Washington representative, National Association of State Conservation Agencies	170
Prepared statement	242
Hartnett, Kathleen, director, private lands, water and environment, National Cattlemen's Association	161
Prepared statement	227
Hinkle, Maureen Kuwano, director, agricultural policy, National Audubon Society	184
Prepared statement	259
Hoefner, Ferd, Washington representative, Sustainable Agriculture Coalition....	166
Prepared statement	235
Kleckner, Dean R., president, American Farm Bureau Federation	144
Prepared statement	192
Peterson, R. Max, executive vice president, International Association of Fish and Wildlife Agencies	172
Prepared statement	246
Rose, Gerald A., Minnesota State forester, and chairman, resource management committee, National Association of State Foresters	174
Prepared statement	251
Shea, Ernest, executive vice president, National Association of Conservation Districts	177
Prepared statement	255
Watson, Leroy, assistant legislative director, National Grange	152
Prepared statement	221
Webb, Barbara G., assistant director, government relations, National Farmers Union, also on behalf of the National Farmers Organization	147
Prepared statement	207

SITE-SPECIFIC AGRICULTURAL RESOURCE MANAGEMENT ACT OF 1993

THURSDAY, APRIL 1, 1993

**HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENVIRONMENT, CREDIT,
AND RURAL DEVELOPMENT,
COMMITTEE ON AGRICULTURE,
Washington, DC.**

The subcommittee met, pursuant to notice, at 9:40 a.m., in room 1300, Longworth House Office Building, Hon. Glenn English (chairman of the subcommittee) presiding.

Present: Representatives Johnson, Long, Clayton, Minge, Barlow, Pomeroy, Holden, Thurman, Sarpalius, Peterson, Hilliard, Inslee, Combest, Allard, Barrett, Nussle, and Ewing.

Staff present: John E. Hogan, minority counsel; Jan Rovecamp, clerk; Benjamin I. Baker, James E. McDonald, and David Ebersole.

OPENING STATEMENT OF HON. GLENN ENGLISH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OKLAHOMA

Mr. ENGLISH. The hearing will come to order.

The legislation that we are considering today is intended to provide a more rational approach to dealing with the increasing number of conservation and environmental requirements on land used in agricultural production. Currently, within the Department of Agriculture, there are at least 15 programs that are provided for in separate plans relating to soil and water conservation needs and other environmental concerns on farms and ranches.

Under the legislation, if more than one of these plans are provided by the Department of Agriculture for an agricultural land unit, the Soil Conservation Service would have to develop an integrated, comprehensive site-specific plan on the land. The bill requires that such integrated plans must be in place on or after January 1, 1996.

Initially, priority would be given to developing site-specific plans that are required by land users or that are targeted for specific watershed or environmentally sensitive areas.

The legislation also provides a mechanism under which conservation and environmental requirements on agricultural lands administered by other Federal and State agencies can be integrated into the comprehensive site-specific plan. This will be done through agreements with the Secretary of Agriculture.

I might also say on that point that we would hope to strongly encourage other agencies, whether they be Federal or State, to inte-

grate any of their plans, provisions, rules, or regulations into this particular proposal.

The Soil Conservation Service will be given the primary responsibility for developing the site-specific plans for agricultural land units as well as determining compliance with their terms and approving any cost sharing or other assistance, permits, exemptions, and waivers in connection with the plans. In this regard, the bill would not transfer to the Soil Conservation Service any responsibility of another agency for the administration of any cost-sharing program or the disbursal of any funds thereunder.

The legislation merely provides that the request for cost-sharing assistance on lands under an integrated site-specific plan will be made through and approved by the Soil Conservation Service before such cost-sharing assistance is provided. The intent of this provision is to assure that farmers and ranchers have the opportunity to discuss with the Soil Conservation Service alternative practices that may be appropriate to meet the goals in their plans prior to seeking cost sharing assistance for any particular practice.

The Soil Conservation Service will be required to promptly revise any plan, one, if requested by the agricultural land user to reflect a plan change in the farming operation; or, two, if there is a change in the requirements applicable to the land unit. If the Secretary determines that a site-specific plan is properly implemented, the land user will be deemed in compliance with all conservation and environmental requirements covered by the plan with respect to that land.

I'm looking forward to hearing from today's witnesses.

[H.R. 1440 follows:]

103D CONGRESS
1ST SESSION

H. R. 1440

To amend the Soil Conservation and Domestic Allotment Act to provide for comprehensive site-specific resource management plans on land used for the production of agricultural commodities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 1993

Mr. ENGLISH of Oklahoma (for himself, Mr. DE LA GARZA, Mr. COMBEST, Mr. PENNY, Mrs. CLAYTON, Mr. MINGE, and Mr. BARLOW) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Soil Conservation and Domestic Allotment Act to provide for comprehensive site-specific resource management plans on land used for the production of agricultural commodities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Site-Specific Agricul-
5 tural Resource Management Act of 1993".

6 **SEC. 2. REFERENCES.**

7 Except as otherwise specifically provided, whenever in
8 this Act a section or other provision is amended, repealed,

1 or referenced, such amendment, repeal, or reference shall
2 be considered to be made to that section or other provision
3 of the Soil Conservation and Domestic Allotment Act (16
4 U.S.C. 590a et seq.).

5 **SEC. 3. FINDINGS.**

6 (a) FINDINGS.—Congress finds that—
7 (1) agricultural land users are required to de-
8 velop and implement an increasing number of plans
9 that have conservation and environmental benefits as
10 a primary purpose;
11 (2) within the Department of Agriculture, there
12 are as many as fifteen programs that provide for the
13 development of such plans, and currently some agri-
14 cultural land users may have six different conserva-
15 tion and environmentally-related plans in effect with
16 regard to their land;
17 (3) future legislation may mandate additional
18 requirements for agricultural land users;
19 (4) most plans are single purpose in nature,
20 and requirements imposed by one plan may conflict
21 with the purposes, objectives, or requirements of
22 another plan;
23 (5) the complexity of the planning process is
24 such that it is difficult for many agricultural land

1 users to coordinate the various requirements into
2 their individual farming or ranching operations;

3 (6) there is a need to approach conservation
4 and environmental problems on agricultural land on
5 a more rational basis in order to promote practical
6 and economically feasible site-specific resource meas-
7 ures that take into consideration the economic vital-
8 ity of agricultural land units involved; and

9 (7) to ensure consistency, all pertinent con-
10 servation and environmental requirements on agri-
11 cultural land should be coordinated, through a single
12 agency of the Government, into one integrated re-
13 source management plan for the land unit.

14 **SEC. 4. PURPOSE.**

15 (a) It is the purpose of this Act to—

16 (1) assist agricultural land users in meeting
17 conservation and environmental requirements on
18 such lands, while maintaining viable farming or
19 ranching operations;

20 (2) provide that a single Federal agency, the
21 Soil Conservation Service, be responsible for working
22 with other governmental agencies and agricultural
23 land users in the development and implementation of
24 integrated resource management plans for agricul-
25 tural lands;

5 (4) help ensure that a site-specific approach en-
6 compassing all resources will be used in an inter-
7 related manner when developing and implementing
8 plans on agricultural land for conservation and envi-
9 ronmental purposes; and

(5) help ensure that a balance is maintained among productivity, efficient management of resources, and environmental quality with respect to the agricultural land unit.

14 SEC. 5. ESTABLISHMENT OF PROGRAM.

15 The Act is amended by adding at the end the follow-
16 ing new section:

17 "SEC. 18. COMPREHENSIVE RESOURCE MANAGEMENT 18 PLANNING.

19 "(a) DEFINITIONS.—As used in this section—

20 “(1) AGRICULTURAL LAND.—The term ‘agricul-
21 tural land’ means crop land, pastureland, native pas-
22 ture, rangeland, orchards, vineyards, and any other
23 land used to produce or support the production of
24 an annual or perennial crop of a commodity, aqua-
25 culture product, nursery product, or livestock. The

1 term 'agricultural land' shall not include Federal
2 lands subject to the Forest and Rangeland Renew-
3 able Resources Planning Act of 1974 or the Na-
4 tional Forest Management Act of 1976.

5 “(2) AGRICULTURAL LAND USER.—The term
6 ‘agricultural land user’ means any landowner, lease-
7 holder, tenant, sharecropper, or other person re-
8 quired to meet conservation and environmental re-
9 quirements on agricultural land.

10 “(3) STATE.—Notwithstanding section 17(a),
11 the term ‘State’ means any State of the United
12 States, the District of Columbia, the Commonwealth
13 of Puerto Rico, the Commonwealth of the Northern
14 Mariana Islands, the Virgin Islands, Guam, Amer-
15 ican Samoa, and the Trust Territory of the Pacific
16 Islands.

17 “(b) ESTABLISHMENT.—Within one hundred and
18 eighty days of enactment of this Act, the Secretary of Ag-
19 riculture, acting through the Soil Conservation Service,
20 shall issue regulations establishing a program to develop
21 site-specific integrated resource management plans for ag-
22 ricultural land.

23 “(c) PROGRAM REQUIREMENTS.—Notwithstanding
24 any other provision of other law—

1 “(1) the regulations issued under this section
2 shall establish procedures under which all plans re-
3 quired by the agencies of the Department of Agri-
4 culture pursuant to any provision of law or regula-
5 tion with respect to soil, water, and other resource
6 conservation and environmental concerns on agricul-
7 tural land are to be integrated into a single com-
8 prehensive site-specific plan for the land involved;

9 “(2) the regulations shall provide that, with re-
10 spect to any such single comprehensive site-specific
11 plan developed under paragraph (1), the Soil Con-
12 servation Service shall be responsible for, among
13 other things, determining compliance with the terms
14 of the plan and any permit, exemption, and waiver
15 issued in connection therewith;

16 “(3) the procedures shall ensure that, on or
17 after January 1, 1996, a single comprehensive site-
18 specific plan shall be in place with respect to any ag-
19 ricultural land for which more than one plan is re-
20 quired by agencies of the Department of Agriculture;

21 “(4) during the period of January 1, 1994,
22 through December 31, 1994, the Soil Conservation
23 Service shall give priority to developing (A) single
24 comprehensive plans that are requested by agricul-
25 tural land users and (B) single comprehensive plans

1 that are targeted to specific watersheds or other
2 areas or regions determined by the Soil Conservation
3 Service to be environmentally sensitive, taking into
4 consideration the lands described in section 1238C
5 of the Food Security Act of 1985 (16 U.S.C.
6 3838C);

7 “(5) the regulations shall provide that all re-
8 quests for cost-sharing or other assistance available
9 under any program or activity of the Department of
10 Agriculture with respect to a conservation practice
11 on agricultural land for which a single comprehen-
12 sive plan is in effect, and all requests for permits,
13 exemptions, or waivers under such programs or ac-
14 tivities with respect to such land, shall be made
15 through and approved by the Soil Conservation Serv-
16 ice;

17 “(6)(A) the head of each agency or entity of the
18 Government, other than the agencies of the Depart-
19 ment of Agriculture, may enter into agreements with
20 the Secretary of Agriculture under which any con-
21 servation and environmental requirements with re-
22 spect to agricultural land under any program or ac-
23 tivity of such agency will be incorporated into the
24 single comprehensive plan developed by the Soil Con-
25 servation Service for the land involved;

1 “(B) agreements entered into under subparagraph (A) may provide for the manner in which
2 cost-share or other assistance available from the
3 other agency with respect to a conservation practice
4 on agricultural land for which a single comprehensive
5 plan has been developed will be coordinated with
6 any cost-share or other assistance available from the
7 Department of Agriculture;

9 “(C) agreements entered into under subparagraph (A) may provide for the delegation to the Soil
10 Conservation Service of the responsibility for (i) receiving, processing, and approving requests for cost-
11 sharing or other assistance, permits, exemptions, or
12 waivers under such program or activity and (ii) performing any other responsibilities and functions in
13 connection with such program or activity;

17 “(D) agreements entered into under subparagraph (A) shall provide for the reimbursement to the
18 Secretary of Agriculture, on an annual basis, of such
19 sums as are necessary to cover the costs of the Soil
20 Conservation Service of performing any function of
21 activity delegated to it under the agreement, and
22 any funds reimbursed under this section shall re-
23 main available to the Soil Conservation Service until
24 expended.

1 “(7) the Secretary of Agriculture may enter
2 into agreements with any State, including any agen-
3 cy or subdivision thereof, under which (A) any con-
4 servation and environmental requirements with re-
5 spect to agricultural land under any program or ac-
6 tivity of the State will be incorporated into the single
7 comprehensive plan developed by the Soil Conserva-
8 tion Service for the land involved, and (B) any cost-
9 sharing or other assistance available from the State
10 with respect to any practice on agricultural land for
11 which a single comprehensive plan has been devel-
12 oped will be coordinated with any Federal cost-share
13 or other assistance to be provided.

14 “(d) CRITERIA FOR COMPREHENSIVE RESOURCE
15 MANAGEMENT PLANS.—The Secretary of Agriculture,
16 acting through the Soil Conservation Service, shall estab-
17 lish criteria and standards to be used in the development
18 of comprehensive site-specific resource management plans
19 for agricultural land. In establishing such criteria and
20 standards, the Soil Conservation Service shall consult with
21 Federal and State agencies, including the technical com-
22 mittee in each State established under section 1261 of the
23 Food Security Act of 1985 (16 U.S.C. 3861), that have
24 expertise in, or whose programs and activities involve, con-

1 servation and environmental measures on agricultural
2 lands.

3 "(e) REQUIREMENTS FOR INDIVIDUAL PLANS.—
4 Each individual comprehensive resource management plan
5 shall be developed using the criteria and standards estab-
6 lished under subsection (d) and shall, among other
7 things—

8 "(1) be specifically designed for the land unit,
9 and each subpart thereof, described in the plan;

10 "(2) provide, to the extent possible, various
11 management alternatives which the agricultural land
12 user may use to meet the conservation and environ-
13 mental concerns with respect to the land unit in-
14 volved;

15 "(3) encompass soil, water, plant, and animal
16 resources;

17 "(4) take into consideration the ability of agri-
18 cultural land users to manage natural resources for
19 meeting agricultural production, conservation, envi-
20 ronmental, and quality of life objectives;

21 "(5) provide for systems that promote the effi-
22 cient long-term production of food and fiber and the
23 maintenance and enhancement of natural resources;
24 and

1 “(6) take into consideration the economic, so-
2 cial, and environmental costs and benefits of the var-
3 ious management alternatives described.

4 “(f) REVISION OF PLANS.—The Soil Conservation
5 Service shall revise any plan—

6 “(1) upon request of the agricultural land user
7 involved, to reflect anticipated changes in the oper-
8 ation of the unit, providing that the conservation
9 and environmental requirements with respect to the
10 unit will continue to be met if the changes are imple-
11 mented; and

12 “(2) to reflect any changes in the conservation
13 and environmental requirements with respect to the
14 land unit.

15 “(g) PROMPT COMPLETION AND NOTIFICATION.—
16 Any revision of a plan under subsection (f) shall be com-
17 pleted and provided to the land user as promptly as pos-
18 sible after the request or notification of change in require-
19 ments.

20 “(h) LIABILITY PROTECTION.—Any agricultural land
21 user who, as determined by the Secretary of Agriculture,
22 has properly applied, or who is properly implementing, a
23 comprehensive resource management plan developed for
24 an agricultural land unit under this section shall be
25 deemed to be in compliance with all conservation and envi-

1 ronmental requirements covered by the plan with respect
2 to such land unit.”.

3 **SEC. 6. EFFECTIVE DATE.**

4 This Act and the amendments made by this Act shall
5 be effective on the date of enactment.

○

Mr. ENGLISH. Mr. Combest.

**OPENING STATEMENT OF HON. LARRY COMBEST, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS**

Mr. COMBEST. Thank you, Mr. Chairman.

As a sponsor of your bill, H.R. 1440, I believe, Mr. Chairman, you have taken the correct first step in getting farmers, ranchers, and other landowners out of the environmental maze that Government has built for them. Farmers want to do right, and I've always found that they know what's right to do. As policymakers, though, we must be careful what course we set. Although I oftentimes wonder if the Nation has done right by its farmers, I do think Congress gave agricultural producers a correct bearing in the 1985 farm bill.

We may have some differences about how the law has been implemented in certain areas; however, farmers and ranchers understand the importance of that law and are following its direction. It takes time to get there, and as members of this subcommittee understand, the means of getting there often are obstructed by the bottom line of the balance sheet.

As I noted about a year ago in a hearing in this subcommittee, my district in west Texas has seen a dramatic increase in conservation practices. No-till cotton in one county alone, Terry County, has increased from 200 acres in 1989 to about 35,000 acres in 1992. The practice of wind strip cropping has increased throughout Texas, and you only need to have lived in the Lubbock area a few years to know what that practice has meant in west Texas.

Mr. Chairman, a recent study by the agricultural economics department at Texas Tech proves that conservation efforts such as the conservation reserve program can save soil and improve the environment for a small Government investment. We need to continue this kind of far-sighted program of incentives for conservation and fight those who would want to dictate how farmers use their crop lands.

Unfortunately, Mr. Chairman, unlike other businesses, U.S. agricultural producers in this country of surplus can't pass on their cost increases to consumers. Government regulation costs money that may take years to show up in a bale of cotton. If enough farmers can't meet the regulations and their obligations to the local bank, however, consumers will begin to feel these costs. Farm programs help that situation.

As committee members heard just last week from Texas A&M University, a moderate-sized west Texas cotton farm could expect a 91 percent decline in net cash income if the Clinton budget is adopted. But we are here this morning to talk about conservation and environmental regulations.

I would just quote from a recent wire story the remarks of an EPA staffer who was questioned about what benefits the President's energy tax package would bring to U.S. agriculture. The response from the staff person was that "there would be fewer farmers." It just shows the current mindset within the environmental community concerning American agriculture. However the President's men may desire fewer farmers on the High Plains, abandoned farmsteads are not an environmental program.

During the past couple of decades, the Congress has written environmental legislation with little regard for who carries it out. If the law comes from the Agriculture Committee, USDA generally implements it. If a bill was originated in the House Commerce Committee, EPA or FDA probably carries it out. If legislation was written in Public Works, it may be a combination of agencies that finally administer it.

The 1990 farm bill alone contains more than 60 pages of amendments and new environmental laws aimed at agricultural producers. In water quality issues, there are more than 20 statutes to control and regulate surface water, drinking water, marine water, and wetlands. Many of these directly affect farming operations. At least for farmers and ranchers, it is time that we place some kind of control and coordination on these laws, and I believe this bill makes that attempt.

Thank you, Mr. Chairman.

Mr. ENGLISH. Mr. Minge.

Mr. MINGE. I don't have a statement, Mr. Chairman.

Mr. ENGLISH. Mr. Barrett.

OPENING STATEMENT OF HON. BILL BARRETT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEBRASKA

Mr. BARRETT. Thank you, Mr. Chairman. I appreciate the fact that you have called this hearing today, a first apparently of two hearings and ultimate markup, to discuss your Site-Specific Agricultural Resource Management Act of 1993. You have indicated, I believe, in earlier meetings that you intended to provide a more rational approach for dealing with the increasing number of conservation and environmental requirements on land used in agricultural production, and I certainly commend you for that.

I think in the interest of time, Mr. Chairman, I would simply say in my brief review of H.R. 1440, it appears to be farmer-friendly, and I certainly look forward to the testimony from our panel today.

Thank you.

Mr. ENGLISH. Thank you very much. I appreciate that, Mr. Barrett.

Mr. Barlow.

Mr. BARLOW. Thank you very much for holding these hearings, Mr. Chairman. I'm very pleased to be able to contribute.

Thank you.

Mr. ENGLISH. Thank you.

Mr. Holden.

Mr. HOLDEN. No statement, Mr. Chairman.

Mr. ENGLISH. Mrs. Thurman.

Mrs. THURMAN. No statement, Mr. Chairman.

Mr. ENGLISH. Mr. Sarpalius.

Mr. SARPALIUS. Mr. Chairman, I'd like to submit my opening statement, if that would be all right. I just would like to commend you for your efforts on this legislation, and, obviously, I want to do everything I can to prevent our good topsoil from the Texas Panhandle from blowing into Oklahoma.

[The prepared statement of Mr. Sarpalius follows:]

OPENING STATEMENT
THE HONORABLE BILL SARPALIUSPUBLIC HEARING
SUBCOMMITTEE ON ENVIRONMENT, CREDIT, AND RURAL DEVELOPMENT
APRIL 1, 1993

Thank you Mr. Chairman, and welcome to our distinguished panel of guests that are here to testify today.

I have received numerous comments from the people of the 13th Congressional District of Texas concerning the operation of the USDA, and the procedures they must follow to comply with the conservation requirements set forth by the Federal Government. The overwhelming consensus of opinion is in support of conservation practices; however, there is concern about the difficult and lengthy process that is associated with compliance.

H.R. 1440 offers a proposal to consolidate and simplify the process for dealing with the increasing number of conservation and environmental requirements on land used in agricultural production. As with any change, there is both support and opposition to this proposal. I would like to thank the Chairman for providing this opportunity to discuss H.R. 1440 and to allow each and every one of us to obtain a fuller understanding of its potential impacts. I enjoy the opportunity to hear from members of the various farm organizations, members of the administration, and individual constituents as to the direction USDA reorganization should take. I am also interested in their assessment of this bill, and I encourage any suggestions to simplify compliance with Conservation Compliance Plans.

Conservation compliance programs have been beneficial to all of agriculture. They have preserved our cropland for future generations, and kept us far removed from the days of the dust bowl. I am sure that Congressman English has noticed that less and less of the Texas Panhandle has blown across his District. This is due, in large part, to the conservation policies set forth by this committee, and the 1985 and 1990 Farm Bills. H.R. 1440 offers a simplification to compliance, and is worthy of serious consideration. It is in line with the goals of Secretary Espy and the current Administration as they work towards streamlining the USDA, and making its programs more farmer-friendly.

I look forward to today's testimony. I am very interested in the observations, questions, and comments that this panel will have; and I look forward to an honest, straight-forward discussion on this issue. Thank you.

Mr. ENGLISH. Well, we've appreciated your contributions in the past from the Texas Panhandle, and we look forward to any further contributions you'd care to make. We need all the topsoil we can get. Thank you very much, Mr. Sarpalius.

I do want to say, as was pointed out by Mr. Barrett, this is really the first of at least two, possibly three hearings, depending on how many additional witnesses we will have. We wanted to have this first hearing to simply present the legislation and get underway as far as some testimony from our witnesses. We expect that people will be reviewing this legislation over the district work period, and we will have additional hearings following that. We will hear from the Department as well as a long list of others.

I'm very pleased to note that we're seeing interest both from environmental groups and from commodity groups, and generally, so far, at least the preliminary evaluation seems to be friendly. So that's indeed an unusual piece of legislation if all sides feel that it's friendly to them and one that they can work with.

So we're looking forward to the testimony, and certainly we're looking forward to the panel that we will hear from today that will get us started on this.

If the panel would come forward. Mr. Norman Berg, who is with the Soil and Water Conservation Society; Ms. Robbin Marks, who is with the National Resource Defense Council; and Mr. Timothy Warman, who is with the American Farmland Trust.

I want to welcome you all here today, and, Mr. Berg, we'll let you start off. I might say for our witnesses that if you would care to summarize your written testimony, without objection, your completion written testimony will be made a part of the record.

Mr. Berg.

STATEMENT OF NORMAN A. BERG, WASHINGTON REPRESENTATIVE, SOIL AND WATER CONSERVATION SOCIETY

Mr. BERG. Thank you, Mr. Chairman.

Good morning, Mr. Chairman and members of the subcommittee. I would like to insert into the record along with my statement on H.R. 1440 a brief bio that relates to my background. I think that's worthwhile doing on April Fool's Day.

I am Norm Berg. I'm a former Chief of the USDA Soil Conservation Service, and our society is a multidisciplinary membership international organization. We do advocate the protection, enhancement, and wise use of soil, water, and related natural resources. We do this through both education and example and promote an ethic that recognizes the interdependence of people and the environment.

We're pleased to be asked, with the two options that were given on dates, to comment on H.R. 1440. The proposed legislation, with the seven findings in section 3, amply demonstrates a need to correct what may well be a rapidly developing problem facing users of land for agricultural purposes. Many of the members of our society have direct contact with agricultural land users. They know first-hand of the present requirements leading to the development of single-purpose plans that can end up conflicting with the purposes of another required plan.

We intend to monitor the legislation as it moves through the process of being enacted. Our society will be pleased to assist your committee as you seek solutions to a planning problem mandated, in many cases, by law and/or agency regulation. An example presently from the 1985 Food Security Act are the 1.3 million conservation compliance plans now being implemented.

Planning is a process used since the beginning of the soil conservation movement in the mid-1930's by the SCS and the local soil conservation districts to assist land users to decide how to improve and maintain their soil, water, and related resources. The plan provides an organized, consistent, and orderly method of knowing the land users' objectives, identifying problems, evaluating treatment alternatives, and, most importantly, assisting in reaching decisions that are needed to begin implementing the plan, and it's their plan.

My first assignment 50 years ago last month, as a new SCS career conservationist in Idaho, was to develop what we knew only then as basic or complete plans with farmers and ranchers for all of the land and all of the natural resources under their management. The world is much more complex today. However, even when I rejoined the SCS after Marine Corps duty in World War II, we had been assigned site-specific planning requirements for a land user to qualify for cost-share payments for the agricultural conservation program.

These were for the permanent-type soil conservation measures that required technical expertise. There was a four-step process required to determine that spending public money on that particular measure was going to be cost/benefitwise. I recall this was the first time that the Service gave our field people the option of a partial or an initial plan, obviously targeted to that particular initiative.

Along with that responsibility, Congress did provide, and has for many years, in the annual appropriation for ACP a transfer of up to 5 percent of the cost-share money to be used by the SCS for this type of work. Despite the early requirement of a single-purpose ACP plan, the SCS still promoted the concept of a comprehensive plan. Each participant was asked to become a cooperator with their local conservation district, and field conservationists were directed to work with these participants and to eventually develop a complete comprehensive plan. Incidentally, that process brought many new cooperators into the conservation district fold.

History showed, however, that the resources needed by both SCS and the districts were not available in some locations to meet the requirement for complete plans. Later, through action in 1956 Congress created the Great Plains conservation program—and I know, Mr. Chairman, that you're very familiar with that program in your district. I had the leadership for that program and its implementation first in South Dakota, and then later at the SCS headquarters. That program required the land user to have a comprehensive resource plan to qualify for a contract. That program, with contracts that ranged from 3 to 10 years, guaranteed the land user the needed technical and cost share assistance to fully implement their comprehensive plan.

It's been a successful program, extended several times, most recently in the 1990 farm bill until beyond this century. It has an authorized funding level of \$1 billion. Fiscal year 1993 funding is only

at \$25 million. That law, along with several others for soil, water, and watershed conservation work, could well use more funds. I believe SCS still has a backlog of applications each year for programs that do have conservation and environmental benefits if they could be implemented.

Therefore, a priority consideration of new legislation, it seems to us, must be the ability of the agencies to deliver. Government builds expectations that often offer promising solutions to problems, but in many cases end up too often as only a piece of paper on the shelf.

I know of your concern on these matters, Mr. Chairman, as you have testified many times for adequate funding for the several soil and water conservation programs in the Department. This bill seeks to correct problems from a long history of law and/or regulation that require single purpose conservation plans. This was dedicated to a targeting concept to get higher priority placed on some of the very severe problems, especially the highly erodible land.

In the Food Security Act of 1985, there are several actions that led to the planning process I mentioned. Most importantly was the highly erodible land conservation requirement that led to the conservation compliance plans and also requires a plan for sodbusting. Of course, the conservation reserve program required plans, with something over 36 million acres in that program and thousands of land users that bid successfully and required plans.

Again, in the 1990 farm bill, adding several requirements for plans—I'm not going to cite them, but they're in the record, and it's been mentioned already—there were some very substantial duties laid on the agencies in USDA for plans. The wetland reserve program will require that kind of planning. It needs to be expanded beyond the nine States if we can get funding. There are other measures that relate to sustainable ag, to water quality, and measures that are targeted, again, to some very specific problems. The 1990 farm bill did strengthen the actions in the 1985 conservation provisions.

In my State we have an interesting requirement from the State department of the environment. I serve on a conservation district governing board and also on a State task force to help develop the regulations that requires a soil conservation and water quality plan for the whole farm, prepared in accordance with the SCS planning procedures and the technical guide and so forth and so on. The reason for the plan is to make the best possible use of soil and water resources, and to minimize the movement of sediment, animal waste, and nutrients of agricultural chemicals into the waters of Maryland. A land user implementing the plan will not be subject to any penalties for a violation of the environmental laws of the State of Maryland.

Therefore, in your bill, section 4, purpose 3, "by providing a more efficient and effective method to coordinate Federal, State, and local conservation and environmental requirements with respect to individual land units," you're recognizing the need for a partnership with non-Federal actions already underway in some regions of the country, and we're probably going to see more of that. You also specify that agreements may be entered into with States.

Section 4 of the bill lists five objectives that are obviously very excellent. It makes sense that, if at all possible, all plans required by agencies with respect to soil, water, and resource and environmental concerns on agricultural land be integrated into a single comprehensive, site-specific plan for that particular holding.

It's a worthy goal to try to achieve this, hopefully within this century. After consulting with our staff in Ankeny, Iowa for our society on the testimony, we felt it timely to agree in principle with the need for comprehensive site-specific resource management plans on land used as envisioned in this bill. We strongly endorse the planning process as it's been practiced for decades by the SCS and conservation districts.

We're also pleased for the first time in my memory, Mr. Chairman, that this bill allows, and hopefully in the following hearings, a full discussion of conservation plans, why they are needed, and how to improve the process. The impact on the land users of a single-purpose plan, as mentioned, often undercoordinated, lacking balance, et cetera, can cause some very severe problems. The plan should be a means to achieve the wise use of resources, a sustainable agricultural production system that is sensitive to the environment.

Presently, the finding of as many as 15 programs that provide for the development of plans, perhaps as many as 6 that relate to conservation and the environment, is going to be made even more challenging as non-Federal governments and their requirements for comparable plans, as I've mentioned, come on board. There will be some other activities from other committees that relate to this issue. We've already seen it in the coastal zone management requirement in regard to nonpoint source pollution.

Pending more review of this bill, including all of the consequences of it being enacted, our society will welcome the opportunity to provide the committee a position statement. We develop position statements. We have two recent ones—one on wetland conservation, one on water quality—and presently one underway on the future of the conservation reserve program, and we will do the same on this bill.

For this hearing, we offer these comments and some questions. Section 5, obviously, is the key to what this bill is all about. First, the time requirement of 180 days after enactment to issue regulations to establish the program, et cetera, may be, in my opinion, too demanding. The serious problem that we found during our field evaluations of the conservation provisions of the 1985 bill, as USDA implemented those provisions, was the concern of the field people for the many changes in rules and regulations that they had to deal with. It would greatly benefit those who implement programs to be certain that enough time and testing of regulations is done prior to issuance. The objective should be to have a minimum of change after regulations are issued, and this bill will require very substantial change in the operation of several Federal agencies.

Second, requiring that SCS give priority for the full year of 1994 to developing single comprehensive plans under certain conditions spelled out may conflict with the very heavy demands that relate to the implementation of conservation compliance, because 1993

and 1994 calendar years are, without question, the time that many land users will install conservation measures to avoid penalties. The eligible land required in those seven categories as cited in the bill under section 1238C need to be examined in detail. Perhaps this needs further review.

Next, we do know, and I listened to your speaking to the conservation district leaders last Monday morning, that this bill obviously will require that agencies examine their particular turf and how they view their relationship to this, and, therefore, that's going to require some very tight scheduling for the relevant USDA agencies if we're going to meet the deadline of January 1, 1996, to have implementation underway.

Last, SWCS has carried out two field evaluations on the implementation of the conservation provisions of the 1985 Food Security Act. Your committee held a very good hearing on this issue in 1992. You may recall that our evaluation found some SCS personnel needed more training to adequately meet their responsibilities. Many have not been trained nor have had the experience of a comprehensive resource management planning method of working with agricultural land users. The enactment of this bill will call for agencies, not in USDA especially, to consider making agreements with the Secretary. SCS will need that type of assistance whenever site-specific plans are required, especially on those so-called environmental issues that relate especially to some of the issues that revolve around water quality and wildlife and that sort of thing.

State technical committees, as authorized in the 1990 farm bill, have a role to play, and we're pleased to note that they will have a function in the proposed bill. The role of local conservation districts in the planning and the implementation of plans may be covered in the agreement with States. They are, in many States, viewed as subdivisions. However, in my opinion, they deserve special mention in the bill because they are cited in several instances in the planning process in both the 1985 and the 1990 farm bills.

Our questions relate to the assignment of the SCS as the key agency for several provisions of the bill. As a long-term and vocal supporter of the Service, I'm pleased that Congress would have this confidence in their ability to deliver. Some may disagree, as the several agencies with responsibilities for permits, exemptions, cost-sharing, et cetera, will probably have reasons for maintaining their present method of delivery.

The major challenge will be the needed resources to perform. Can we assume that SCS will be reimbursed by the other agencies as delegated under certain agreements? Some tasks may require funding prior to reimbursement. Can up-front funding be given? The land users in many cases will need additional financial incentives to implement their comprehensive plans. I'm sure several organizations will come in with some ideas on this. How can assurance be given to those implementing their site-specific plans that this type of needed financial and technical help is provided on a timely basis?

The legislative history of the bill should include several areas that will help clarify the need and intent of H.R. 1440. What are those 15 USDA programs and the 6 relating to the different conservation and environmentally related plans now in effect? What is

meant by "one integrated resource management plan"? It would help to have discussion of what is meant by "practical and economically feasible site-specific resource measures that must take into account the economic viability of agricultural land units involved." These words were used several times in the 1990 farm bill.

Finally, the end result of the proposed bill is to give the agricultural land user the guarantee of liability protection. The conservation compliance provision of the 1985 act is now being widely implemented. What will that record show by 1995? In my opinion, field people will need assurance that their decisions, as they assist land users with the plans, will have top support, and I mean at the very top of the agency, for this very demanding responsibility. As additional compliance requirements are added to an agency, the professional disciplines needed must also be brought into the picture.

Thank you for requesting the views of the society on this bill. We'll try to answer any questions that you may have on the statement and be available to help you later.

[The prepared statement of Mr. Berg appears at the conclusion of the hearing.]

Mr. ENGLISH. Thank you, Mr. Berg.

Ms. Marks.

STATEMENT OF ROBBIN S. MARKS, SENIOR PROGRAM ASSOCIATE, NATURAL RESOURCES DEFENSE COUNCIL

Ms. MARKS. Mr. Chairman, members of the subcommittee. My name is Robbin Marks from the Natural Resources Defense Council. Thank you for the opportunity to testify today. NRDC has maintained a longstanding involvement in agricultural issues, including the conservation and environmental provisions of the 1985 and 1990 farm bills.

We like the idea of resource management planning. Environmental goals can be harmed when a plan requires a farmer to protect one resource at the expense of another. In our testimony, we attempt to offer constructive recommendations for changes to this bill.

Probably our biggest concern with the legislation is the liability protection from all environmental and conservation requirements covered by plans. This provision could compromise a broad array of local, State, and Federal laws to protect the environment and public safety. We feel that this provision is unnecessary. If the intent of the bill is to have plans meet existing laws, farmers have nothing to fear from environmental requirements.

This bill offers the historic opportunity to move beyond existing, and sometimes weak, standards and to provide true soil, water, and habitat protection. Why not, in the context of a voluntary program that provides targeted cost share assistance, set some basic, economically achievable minimum standards for environmental protection? A number of suggested standards are listed on pages 3 and 4 of my testimony.

The bill authorizes SCS to assume major new responsibilities—determining compliance with the broad array of requirements related to resource management plans and granting exemptions and waivers. We do not believe that inclusion of these new authorities

is necessary for the bill to accomplish its goals, and we oppose giving SCS new enforcement powers. Enforcement should remain with the existing agencies. Review of SCS' record on both enforcement of conservation compliance provisions and granting of exemptions under that law suggests that the agency should concentrate its efforts on improving its existing enforcement capabilities rather than taking on existing enforcement powers.

This bill offers the opportunity to accomplish two important goals: To foster complementary and coordinated efforts on the part of agencies that require farm planning, and to ensure compliance with environmental requirements. A way to accomplish both objectives is to require oversight and evaluation, where appropriate, by EPA, U.S. Fish and Wildlife, and State water quality agencies. We would recommend that the bill specify the involvement of these agencies.

Two other elements are required in the bill to ensure effective enforcement: One, appropriate penalties, which are now absent from the bill; and, two, public participation in plan compliance. Farmers who understand the nature and magnitude of environmental degradation, particularly pertaining to water quality, are more likely to request resource management plans and to implement them properly. A way to develop this commitment is to involve farmers in water quality monitoring efforts.

A very positive intent of this legislation is to address water quality concerns and to focus planning efforts in areas with water quality problems. However, due to the uneven implementation of section 319 requirements in the Clean Water Act to address polluted runoff by States, SCS may find that information concerning the nature and extent of surface and ground water is woefully lacking. Therefore, the reasons for planned revisions under this bill should be expanded to include, one, if new information is learned, and, two, if watershed goals change.

This bill takes a positive step toward addressing agricultural water pollution problems, but it cannot correct the serious and profound problems surrounding section 319 of the Clean Water Act. Our recommendations for the reauthorization of this act include a watershed-based approach in which, in targeted watersheds, all landowners who contribute to water quality problems must create and implement plans that address water quality.

Relating to the planning responsibilities granted to SCS in this bill, we favor the agency's assumption of this task. However, we are concerned with the agency's capability to assume this role quickly. Even while we recognize the urgency in developing resource management plans both from an environmental and land-owner perspective, we want the plans to be done well. The time-tables in this bill appear to be highly unrealistic. It is not clear that SCS has either the personnel or technical capabilities to accomplish resource management planning objectives by 1994 or 1996. SCS is already overburdened with its existing responsibilities.

This bill should remove the date-certain requirements and, in its place, substitute a phased-in approach. The agency should first assume responsibilities for consolidating all USDA plans, with priority given to environmentally sensitive areas. Several years later

the agency could enter into cooperative agreements with other Federal agencies. Then, after a comprehensive evaluation to determine the strengths and weaknesses of the plans and time to make any needed programmatic changes, cooperative agreements with States could be written.

Slowing down the timetable will help ensure that plans are developed properly, but will not fully accomplish this goal. SCS needs to enhance its knowledge of resource management plans through training and developing partnerships with other agencies that are knowledgeable about a range of resource problems and solutions. Therefore, the bill should direct SCS to develop plans in teams. A model for a team approach is the farm assist program first begun in Wisconsin and Minnesota.

Before closing, I wish to commend the bill on two features: The provision of coordinated and direct cost-share assistance, and the reliance on varied site-specific management approaches.

That concludes my prepared remarks. I would be happy to answer any questions.

[The prepared statement of Ms. Marks appears at the conclusion of the hearing.]

Mr. ENGLISH. Thank you very much, Ms. Marks.

Mr. Warman.

STATEMENT OF TIMOTHY W. WARMAN, DIRECTOR, FEDERAL POLICY, AMERICAN FARMLAND TRUST

Mr. WARMAN. Mr. Chairman, Congress Members, my name is Tim Warman, director of Federal policy with the American Farmland Trust. I appreciate the opportunity to be here with you today. The American Farmland Trust is a 12-year-old nonprofit organization that seeks to stop the unnecessary loss of farmland to urban development and also to strengthen conservation practices on that land.

I'd like to say that the American Farmland Trust enthusiastically supports the concepts found within this bill. We think they're a crucial step in the direction of fully integrating resource conservation into agricultural policy, a process which was begun with the Food Security Act of 1985. We hope this process will continue with this bill and in the next omnibus farm bill.

The era of piecemeal conservation plans addressing a single issue or meeting the goal of one agency must end. America can no longer afford the inefficiency and reduced effectiveness that results from the mixed signals of conflicting plans. AFT's President Ralph Grossi calls for a "green evolution," a gradual but deliberate shift in policy priorities away from market-distorting price support programs and toward resource stewardship programs in which the public would provide significantly greater conservation cost-sharing to producers. The total resource conservation management plans that H.R. 1440 envisions could eventually become a mechanism for implementing this broad strategy.

I would respectfully call your attention to Mr. Grossi's remarks and ask that they be included in the record.

Mr. ENGLISH. Without objection, it will appear in the record as an attachment to your prepared statement.

Mr. WARMAN. I would also like to address several specific points in the legislation. First of all, maintaining established conservation goals. We trust this bill should be interpreted to mean that plans will be developed with conservation measures that are both effective in addressing resource needs and are affordable to the farmer, with cost sharing as needed. We cannot support weakening established conservation goals.

We believe the process for establishing criteria for conservation resource management plans must go beyond simply consulting Federal and State agencies and State technical committees. The comprehensive plan should substantially meet the conservation or environmental goals already established in the various conservation plans being replaced. Unless this is clearly spelled out in the legislation, we are concerned that the public will perceive the comprehensive approach as a weakening of agricultural conservation. We are confident this is not the intent of the sponsors.

AFT supports establishing the Soil Conservation Service as the single Federal agency responsible for these plans. SCS alone has the technical expertise that is needed. In specific cases, they may need to draw on expertise outside the agency, but on the whole they have the majority of the expertise. AFT would strongly encourage that SCS itself be restructured as, perhaps, an Agriculture and Natural Resource Conservation Service to emphasize and facilitate its new, holistic resource management role.

In addition, while this is not currently part of the bill, we would suggest that consideration be given to integrating the various cost share programs, supplemented by additional assistance payments derived from commodity programs, into a single comprehensive agriculture and natural resources conservation fund.

We're concerned about enforcement. This bill continues the enforcement role SCS has been struggling with for several years now under conservation compliance. We know of no other agency qualified to evaluate implementation of these new comprehensive site-specific plans on the farm. We would, therefore, encourage SCS, or the new Agriculture and Natural Resources Conservation Service, to develop a methodology for determining compliance that involves both peer review by local farmers, backed up by SCS personnel from outside the local county office. Once local farmers and SCS personnel make a determination of noncompliance, they must be supported by the national office.

I'd like to add that if the plans from outside USDA are incorporated from agencies outside USDA, there may be a need for outside agency assistance in determining compliance.

In terms of regulations and implementation of this bill, we think that to do an effective job of implementing the various programs and plans currently existing into one comprehensive plan, it will require carefully crafted regulations. Perhaps USDA can do this in 6 months, but we suggest that they be given up to a year if needed. It appears likely that, given the current funding of SCS, they will require assistance from other agencies, like the Cooperative Extension Service, and perhaps private farm consultants to meet the total resource conservation planning needs of farmers, who, after all, are ultimately responsible for getting plans on their land.

In this regard, we'd also like to suggest that the needs of conservation compliance need to come first, and if that means a year or two delay in implementing this program, that may be necessary. AFT has recently conducted a survey which indicates that in the neighborhood of 25 percent of farmers out there still need some technical assistance before they will be able to implement their plans fully and be in compliance. We think this needs to have priority.

We would like to emphasize that if Extension or private consultants or other are involved in the planning process, SCS should retain responsibility for establishing the specific guidelines under which plans are written to ensure that conservation goals are met.

Last, under incentives, AFT has always supported a voluntary conservation program that provides sufficient incentives to encourage most farmers to participate. The liability protection section should provide the incentive for all forward-thinking farmers to get plans and implement them. This is a very powerful section of the law in terms of the protection it affords to farmers. That being the case, we would like to see more specific language regarding the meaning of "has properly applied, or who is properly implementing, a comprehensive resource management plan." We think the farmers should be held strictly to meeting the terms and conditions of their plans as if it were a contract. Flexibility may be written into the comprehensive plan, but there should be no flexibility to go outside the plan until it has been officially changed.

The other vital incentive to encourage all farmers to obtain and implement conservation plans is linking farm support payments to fulfilling the terms of the plan. This will provide farmers with the financial resources they need to carry out the plans and establish a partnership between farmers and the public at large for conservation.

In conclusion, AFT would like to commend the sponsors of this bill for their efforts to strengthen the conservation of agricultural and natural resources. We are approaching a crucial juncture in the history of agricultural policy as it addresses resource conservation. The American people are becoming more aware of the impact of agriculture on the environment and are growing impatient with half-baked, fragmented solutions. H.R. 1440 is the kind of bold initiative that, by integrating conservation solutions, can hasten the green evolution and preserve the faith and trust of the public in agricultural producers.

In light of the relatively short period to review and consider the ramifications of this bill, we would like to reserve the ability to submit additional comments in the future.

Thank you very much.

[The prepared statement of Mr. Warman appears at the conclusion of the hearing.]

Mr. ENGLISH. Thank you very much, Mr. Warman. I appreciate that, and certainly you retain that right, as do all of our witnesses. We'll be looking forward to your suggestions.

I think we want to limit members to 5 minutes, including the chairman, but I would like to make a response more than I would ask questions to many of the points that you all made, many of which I think are excellent.

I think you're absolutely right with regard to the time limit being demanding. There's no question about that. The real issue, though, that I think we have before us at this time is whether we can afford to wait. We recognize that we're definitely putting the Soil Conservation Service under the gun with these kinds of limits, as well as the Department of Agriculture, and we may have to make adjustments on that. We understand that, but we don't want to make adjustments that are too lenient. I don't think farmers can afford to have a leisurely implementation of this particular proposal. I think it's very important to them that it be done in a timely manner.

I would wholeheartedly agree as far as the 1994 conservation plans are concerned that we definitely want to make sure the Soil Conservation Service has the adequate resources to deal with that, and that does have to be the top priority and take priority over this legislation. I agree with that entirely.

Training is going to have to be an overall part of beefing up tremendously the Soil Conservation Service. I think the thrust of this legislation and the responsibilities that it will carry for the Soil Conservation Service underscores the major change that we're making here with the Soil Conservation Service. I'm not sure it's that obvious on the surface, but we are talking about a major new role that applies not just for agriculture, but goes beyond the bounds of the Department of Agriculture and invites, encourages, and we're going to be urging other agencies as well as State and local governments to utilize the Soil Conservation Service to make sure that their laws fit and are implemented through the conservation plans. That's what the objective is.

Mr. Warman, you're absolutely right, I think, in what you were saying that as far as the major incentive in this package for those farmers who are forward-looking, the liability protection is going to be a very attractive and important role.

I know, Ms. Marks, you have some concerns about that, but that, in my opinion, has to be a part of this package and is part of the attraction, I think, for farmers and organizations that represent them. There has to be a balance and a tradeoff in this package, and this is one of the big payoffs, I think, as far as farmers are concerned.

There's no question that as far as the conservation programs we have in place today, as well as any that may come in the future, we're looking for incentives to support and assist farmers. The deficiency payments that farmers receive now, many farmers are on the edge, and if we find it necessary to further reduce farm income through the budget that was agreed to, that obviously is going to impact on those farmers, and many who are living on the edge today, quite frankly, won't be able to make it. So I don't think that we can look to deficiency payments as a means of paying for reaching conservation goals.

We have a standard that was set in 1990 for the conservation plans. That is the standard, and I think as we go beyond that, we have to expect that there will be additional compensation for farmers to meet those goals. These are, after all, national goals, not goals being set simply for an individual farmer on his farm, and if they're truly going to be national goals, then we have to expect

that we will fight for and support the resources to meet those goals and make sure that farmers have the ability to meet those goals.

So there's a great deal that we have to do, I think, in thinking about what this is. It's not the simple piece of legislation I think some would view it as at first blush. It's truly a major change, but I think it has to be recognized we're seeing major changes that are underway with regard to agriculture and agricultural programs, and this has been underway for some time now, and I would expect that it will continue in the future. So it is very, very important for the American farmers that we get this type of mechanism in place so that there is a single plan that they have to deal with and that they're not being pulled from pillar to post and all kinds of demands are being made on them without any hope or way that they can meet those kinds of varying demands.

So I thank you for your testimony, and we're certainly going to take the points that you made into consideration as we adjust the legislation as we move along.

Mr. Combest.

Mr. COMBEST. Thank you, Mr. Chairman.

Mr. Warman, in your statement on the first page, third paragraph, where you make the statement in the second line that begins "a gradual but deliberate shift in policy priorities away from market-distorting price support programs and toward resource stewardship programs in which the public would provide significantly greater conservation cost sharing to producers," I think I know what you mean, but would you be a little more definitive about what you have in mind there, what you're suggesting?

Mr. WARMAN. Yes. I'll be as definitive as I can be. It's a concept still under development. I'd like to say this right up front, that we're not advocating that farmers receive less money in terms of support for their farm operation. What we are advocating is that they receive assistance from the Government for conservation activities, things that will lead to more sustainable agriculture in the long run, as opposed to receiving payments through the existing commodity programs that perhaps were supply management programs in the past, but essentially today are income support payments for farmers. We think they still need that support. We just want to buy conservation with it as opposed to what we're buying today.

Mr. COMBEST. That the amount of money not be reduced, but that the incentive in order to receive that money not be dependent upon them participating in a certain commodity program, such as wheat, cotton, or whatever, but that it be based upon compliance with conservation measures.

Mr. WARMAN. Yes, sir.

Mr. COMBEST. On further, on the last page, next-to-the-last paragraph—Chairman English referred to it—the last sentence there says, "This will provide farmers with the financial resources they need to carry out the plans and establish a partnership between farmers and the public at large." As you know, the conservation compliance measures of the past farm bills, the 1985 farm bill, provided that farmers would meet conservation plans within a given timeframe or that, as of a date certain in the future, they would not be eligible for future program payments.

I want to again make sure that I understand what you're saying here. Are you assuming in that statement that the payments which come to farmers for their price support programs would be sufficient enough to carry out conservation programs? Where I'm trying to get with this, Mr. Warman, one of our concerns is that if we make it economically impossible for a farm to achieve laudable goals of environmental concerns, that, if in order to comply with those things, it's just economically impossible, the result is going to be they're not going to do it.

Mr. WARMAN. Absolutely.

Mr. COMBEST. Or they're not going to farm the land or something. So it exacerbates the problem. We feel that in order to achieve those that the public is probably well served, as well as the farmers themselves, if we recognize that requiring conservation practices of certain types—some defined, yet, obviously, some undefined—that we are better off probably to give them assistance. We're trying to make a decision should we look at providing additional incentives, not just the incentive that you can't participate in a program if you don't comply, but are we going to—we're looking at, do we have to come up with additional funds to provide to the farmer to comply?

Just questioning again, sort of, to get more specific about what you're suggesting here, are you suggesting that the program payments that they currently would be eligible for under participation in a commodity program would suffice to allow them to financially comply with conservation measures, or should, do you think, we consider looking at additional financial incentives?

Mr. WARMAN. I'd like to answer that question with two points. First of all, if it costs a farmer \$30 an acre to implement conservation that's called for in his plan and all we do is provide him with \$30, we're not doing anything at all to help his bottom line. We're just helping him cover his costs. I think we have to do more than that. But a rough, back-of-the-envelope calculation has shown us that if we take all the commodity program payments, it provides enough money to pay about \$50 an acre for every acre of crop land in this country, and that if we can maintain that level and shift it toward being a real concrete purchase of conservation, the farmer continues to have the support that he needs, and we buy more conservation. That's what we're trying to say.

Now, whether we do that through some kind of rental like the CRP program was or whether we have some new mechanism, that we're not clear on. But the shifting and maintaining this level of support that the farm community needs, that we are clear on.

Mr. COMBEST. I'm about out of time. I have several other questions but will wait until the next round on that. Just a quick comment.

I think at least in an area that I come from, which is a very erosion-prone and yet very highly intensive agricultural area, we have found in compliance with the conservation compliance provisions of the 1985 farm bill that people were not rushing down to embrace this idea, but as it has come about, we have found that they have been very pleased, a lot of the farmers have, because it, if you will, virtually forces some good management practices in order to comply, and there are some results from that which create better con-

ditions for farming and certainly even creates better production and better yields on these farms.

This is one of the areas that we are trying to stress and impress upon producers, that from experience—and we have many cases that they could go talk to the farmers that are doing them, one particularly that I mentioned in my opening testimony of going from 200 acres to 30,000-plus acres in conservation in no-till practices down there. The initial thought is that no-till is less expensive to farm. That is not the case. It's equally expensive and in some cases more expensive.

But we have also seen the results of that in farms that in the past washed extremely bad. Our annual rainfall is not very much, and it may come on Wednesday one day, and the rest of the year we won't get any. But when it does come on Wednesday, it's pretty wet, and a lot of times water will erode significantly and move around. But we're seeing examples of absolutely no water movement after torrential rainfalls in some no-till practices, and the results have been much higher yields.

These are things that farmers, as I know you all understand, don't real quickly adapt to. I mean, these are things that take a while to work into. But if we can move in these directions, there are tremendous benefits for all concerned. Getting them to do it and letting them see it as a financial incentive and providing some of that financial opportunity is sometimes the most difficult part. If we can get there, it can be extremely successful.

Thank you, Mr. Chairman.

Mr. ENGLISH. Mr. Minge.

Mr. MINGE. Thank you.

Mr. Berg, I'd like to direct a couple of questions to you, and they're based upon some experiences that I have had working with farmers in rural Minnesota. I'm not sure of the number of agencies, State and Federal, that are concerned with conservation practices and enforcement of water quality standards and also of pesticide use and other things such as that. Do you have any understanding, based on your many years of experience in various parts of the country, as to how much overlap, first, there is with respect to the U.S. Department of Agriculture, to start with, and then branching out to State and Federal agencies in general?

Mr. BERG. Mr. Congressman, I think within USDA there's been an attempt over many years to try to get coordination in terms of what has to be done that relate to the conservation benefits. I mentioned the early action that related the agricultural conservation program cost-share program to the planning efforts that the Soil Conservation Service could offer, plus the technical assistance. However, in many cases, land users rely on other agency people, usually through the State governments on forestry, some of the wildlife activities, increasingly on the water quality activities.

Now, the ones that are coming on fairly strong—presently, I live in Maryland, and as I cited an action there, each land user will have to have a nutrient management plan that includes animal wastes and that sort of thing. We also have the restrictions for people being registered to apply nutrients, especially the chemicals. What we're getting at here is there has been a growth over time of these single-purpose needs, because there are problems, and the

need to get these together, as cited in this bill, is very evident. What we're finding is that land users are not only having these requirements laid on them, but they're not real sure what will satisfy the variety of agencies that are asking for their particular effort to be endorsed and carried out on that particular piece of land.

The permitting process that relates to the wetland area has raised some additional questions. So we're adding to that, as I mentioned, with the Coastal Zone Management Act requirements for plans that apparently will impact eventually the amount of money that States get to carry out their nonpoint source pollution work.

Mr. MINGE. So in any event, in some situations there are several agencies, State and Federal, that are working with the same agricultural producer or landowner, dealing with various aspects of how he or she manages that piece of land.

Mr. BERG. There could well be. I think in USDA the network is pretty well centered in terms of people understanding over years of working with the agencies at the field level that ASCS, SCS, Extension, Farmers Home, Federal crop insurance activities are hopefully fairly well understood as to where they need to get that kind of help, and perhaps only one person is helping do that. In many cases, conservation districts have added as many personnel to their staffs as we have from the Federal level, and the land user could care less about the color of that pickup or the name on it as to who eventually comes out to deliver a program. What they're hoping is that that person is technically qualified to deliver what needs to be done.

Mr. MINGE. Does the Soil Conservation Service have, in your opinion, in your experience, the objectivity and the sensitivity to both the needs of the farmer and the needs of the broader community for sound environmental practices in managing land?

Mr. BERG. I think we've come a long way on that. I go back to the days when we were questioned in regard to some of our work on small watershed programs that required channels that wiped out some very valuable wildlife habitat. As I remember, the efforts to broaden our training of people and the kind of people that we brought into the agency with a variety of disciplines was an attempt to have a very competent workforce, have them have the training needed. That's why the possible reorganization that's being talked about in the Department should not lose what we have developed in the way of a highly professional technical agency that has a credibility record.

Congress, incidentally, when they look at some of these new requirements set up in these more recent farm bills, have added to the responsibilities of the agency, I think, built on that credibility that they've attained.

Mr. MINGE. Do you see that they have a working relationship or credibility with State agencies—in my State it's the Department of Natural Resources; in other States it may be other agencies—and with other Federal agencies, such as the Environmental Protection Agency, the Corps of Army Engineers?

Mr. BERG. I think we need more of that. I really think that is more in the way of a personnel location problem. Many of these offices that USDA works with are not field-based like USDA's net-

work, and the Corps of Engineers or the Environmental Protection Agency or some other activity is not as close to the field. Their offices may be at some regional center, not with the delivery network that USDA has, and that has, obviously, the need for better coordination and more relationship in terms of what each can do and do it best.

Mr. MINGE. Thank you.

Mr. ENGLISH. Mr. Allard.

Mr. ALLARD. Thank you, Mr. Chairman. First of all, before I ask any questions, I'd like to compliment you on this piece of legislation. I think that it begins to address some of the problems that have been called to my attention in eastern Colorado. We have a lot of extremes in growing conditions and a lot of extremes as far as different types of agricultural operations are concerned, and the idea of a single plan that is site-specific, I think, will allow the Soil Conservation Service to respond responsibly to some of these problems that have come up on an individual basis.

I have farmers who have problems with some of the current provisions. The individuals that are enforcing those provisions on the farm agree that it doesn't make sense, but yet they find that they have to apply the law, and the local flexibility, I'd have to say, appeals to some of the problems that I'm seeing in eastern Colorado.

I also like the idea of allowing the Secretary of Agriculture to enter into agreements with State governments and other Federal agencies and that they work together with these site-specific plans to meet those conservation and environmental concerns.

I have a question for Ms. Marks. You stated in your testimony that you don't have any problems with this as far as the Clean Water Act is concerned under section 319, and then later on it sounds like you almost contradict yourself on page 16 when you say you oppose authorizing SCS to develop cooperative agreements with States and some functions as far as ground water protection or nutrient management. Could you clarify that for this committee, particularly for me?

Ms. MARKS. Sure. We think this could be complementary to new provisions under the Clean Water Act, but we don't think that the act would necessarily take this approach or resource management plans would substitute for a Clean Water Act. I think in general our concerns surrounding water quality and implementation of this approach have to do with making sure that there are strict standards to protect environmental and public health, and we want to make sure that this approach not only doesn't weaken existing standards, but takes a step forward in a positive direction.

So what we're saying is that this is not necessarily in place of but could be complementary to addressing nonpoint source pollution in the Clean Water Act. But we have to watch it pretty carefully to make sure that there are not problems.

Mr. ALLARD. Thank you.

Mr. Berg, this proposal will require quite a bit of cooperation between the various agencies in the Department of Agriculture. Do you think that the agencies in the Department of Agriculture are capable of coming together and cooperating in the manner that's going to be required by this piece of legislation?

Mr. BERG. I think that's going to be the biggest challenge. I think we recognize that after the many years that the agencies have been contributing their particular responsibilities to the conservation effort, they've carved out what they consider their common ground, and that shows up in the appropriation process and then is carried on through the actions that require delivery. But the time has come, as so many have mentioned, to make changes, and I think that's what the Secretary is thinking about in terms of some of the restructuring that needs to be done at the USDA top level.

Some of the reexamination of where field offices are and how centralized they are to the users, what will be needed to make it farmer friendly, more can be done, and in some cases it may require changes in people. I would think that the people that are assigned to head the agencies can have a great influence as to how their functions are viewed at the field level, and if that coordinated, cooperative effort is established at the top, the word will be followed through the agencies that are, as the SCS is, a line agency.

Mr. ALLARD. I appreciate your comments that it is somewhat of an administrative problem and that it does have to start at the top. Are there some things that this committee or some things that can be put in the legislation that would help assure more cooperation among the agencies?

Mr. BERG. I would think the most valuable thing that can be done is the oversight function that the committee can perform as to how these things are being carried out and to hear from the field. One of the things that we noted when we talked about the revisions that were needed for conservation in the 1985 farm bill, we had a conservation coalition of about 30 organizations, and in many cases it was obvious that we needed the input from people that had field experience as to how things actually worked at the grassroots level. So ask the users of these services how satisfied they are.

Mr. ALLARD. It seems to me that that's where this legislation is going, for more input at the local level with your site-specific planning.

Mr. BERG. I want to mention something. We had a national forum 2 weeks ago on the next generation of agricultural resource policy, and it was an excellent conference. One of the farmers mentioned the fact that in his particular State he was concerned that perhaps they would not ask for help from the agencies, because farmers would fear that a technical violation of their compliance plans would be spotted, so why invite trouble? We've got to have a reinforcement of the need as to why these programs should be carried out in a very serious manner and the fact that the land users are going to be treated very fairly.

Mr. ALLARD. Thank you, Mr. Chairman. I see my time has run out. Thank you.

Mr. ENGLISH. Mrs. Thurman.

Mrs. THURMAN. Mr. Chairman, I really have just some comments and maybe some observations from a Florida perspective. Our State has gone through some brutal battles with growth management, particularly in what we call the land use plans, where in fact agricultural lands have been impacted actually in how they can

and cannot be used. On the other hand, we've also done some things that I think have been very productive, and I just want to share one, because it's mentioned in your bill with aquaculture.

We did an intergovernmental agency—where we actually brought all the different agencies that would deal with aquaculture together so that when these folks went together to get permitting and everything, it was done at one time. Decisions were made, there were not long delays, and it was not a costly process for them.

While I think this is an excellent approach, and I will tell you that my soil conservation people were in the day before yesterday and were very excited about this piece of legislation, I think my concern is that I want to make sure that we provide the flexibility for those States that have already taken on many of these concerns not just from the States' perspective, but from the farmers' perspective. I'm concerned that they're going to see this as one more thing that they're going to have to meet that's going to put them in a tailspin again as they've been working through this.

The second thing that I would like to offer is that I hope as we do this that it's not just the plan. Plans are easy. It's what happens after with technical assistance, but, more importantly probably, the permitting process. We're trying to work in the State of Florida with what we call one-stop permitting. I would hope that this would be something as we bring these agencies and different organizations together that we can provide a way they can do one-stop permitting so we're not sending them here, there, and everywhere and causing them any more delays.

The third thing that I would like to suggest is, that within the idea of flexibility, where States have already looked at the issue, that there are ways that we substitute. So in the conservation plan that's put together that, while it may have something to do with another area in another State or something, that it may not necessarily work for Florida or it may not work for another place, that we're flexible enough to be able to substitute those conditions which these people are trying to meet.

I think that sometimes we get very concerned up here about somebody's not doing this or that, but at the same time they are doing things, and we've got to make sure that while they may already be meeting water quality standards, they've been mitigating wetlands, they've been doing all of these kinds of things, let's not make it so that they can't substitute into that conservation what they've already done and not make it another thing for them to go through, that we look at it from a standpoint of what's been done, but in that plan.

Those are just some observations that I see right now, but I will tell you I think that this is a good idea. I think we have a new breed of farmers in this country as they come along with much more technology than they've ever had—computer equipment that's being used to look at their problems. We have the University of Florida with IFAS, who has just been working with pesticide issues and all of the other different issues that we would like to make sure are considered.

But those are some observations that I have. I'm real concerned about that we don't put an overload on the farmers in Florida.

The last thing I'd like to say is there are very few of them that have any of the dollars that you're talking about, and so while I understand the reason for that—and I'm glad we don't, because I don't want to have to go through all of those fights up here—on the other hand, if we're looking at assistance through dollar amounts or grants of some sort, that we make sure that they're included in these programs and not just because of commodity subsidies.

Mr. ENGLISH. Thank you very much.

Mr. Ewing.

Mr. EWING. Thank you, Mr. Chairman.

A question to Mr. Warman. You mentioned that funding would be placed under the Soil Conservation Service, and I take this to mean that you are referring to paragraph 5 on page 7 of the act, which appears to give that authority to the Soil Conservation Service?

Mr. WARMAN. Yes, sir. Based on the chairman's remarks, perhaps we read more into that than drafters of the bill intended, but we did want to put forward the vision that if all of these various different cost share and other sources of money could be rolled into one fund, it could perhaps be more effective and efficient.

Mr. EWING. Do you think that fund, then, could be equitably distributed around the country? I mean, we have many different problems in different areas of this country.

Mr. WARMAN. I would hope so. We're well aware of the kinds of problems that were just discussed in Florida, and in other areas commodity programs only address a small percentage of the total number of types of crops. There are a lot of people that are farming with no support payments at all. They're growing fruit or something else. So, yes, we would like to see a distribution so everyone can participate.

Mr. EWING. I notice in our packet of information we have a list of common USDA conservation and environmental plans, and it lists 15 different plans. There may be more. I have a real serious question as to the practical ability to bring those into one set of forms. I mean, would it be bigger than the statute books? How are we going to keep that so it doesn't become a bureaucratic nightmare?

Mr. WARMAN. I think there are two answers to that. First, I think there's a fair amount of duplication and overlapping within those plans, and, second, because these are envisioned as site-specific plans, every farmer doesn't need every 1 of those 15 programs or multiple plans. So, yes, as we see it, it's a doable thing.

Mr. EWING. To any of the panel I would ask the question, what is the enforcement mechanism? If you're not in the farm program, what kind of enforcement do you see would be the best to put in legislation such as this?

Mr. Berg.

Mr. BERG. The enforcement, obviously, in the \$1.3 million conservation compliance plans would be the penalty assessed from the standpoint of the variety of farm program benefits that would be denied. I mentioned Maryland. They have an environmental law that requires that there be a very strict adherence to nonpoint source pollution requirements or there could be a penalty. On many of these cases that we're talking about, the plan may be strictly a

voluntary plan. Now, the plans that are required for the conservation reserve have to be carried out to get the annual rental payments. The wetland reserve program is going to require an easement that's a fairly complicated process. So there are things that will be monitored in terms of implementation.

Now, the increasing demand comes from some of the newer laws that will deal with the issues that I mentioned earlier in the coastal zone management action on nonpoint source pollution, some of the concerns about animal waste that are coming to the top of the list, the nutrient management activities that are going to require implementation that could very well have some very strict teeth in terms of enforcement.

Mr. EWING. Ms. Marks.

Ms. MARKS. I think enforcement could be strengthened in this bill. We would suggest that there be penalties attached to non-compliance with the plans as well—perhaps an elimination of cost-share assistance. As far as the present enforcement mechanisms, we recommend in the context of this bill that it remain with the present agencies and whatever are the mechanisms presently for enforcement remain in place.

Mr. EWING. Mr. Warman, do you have a comment on that?

Mr. WARMAN. Our only thought along those lines is that it ought to be sort of a peer pressure-based approach, that the first reviewers, the first judges would be neighboring farmers. If we can pull together the entire farm community and make this everyone's goal, we've seen in the past that this can lead to real change. So we think that the first line ought to be peer pressure, and the second line ought to be the withdrawal of these incentives.

Mr. BERG. I wonder if I could join on that, Mr. Congressman. There is a very large group of good stewards of land and water, and we can build on that ethic that's been coming very strongly throughout the country. So the use of the carrot is much better than the use of the stick if we can possibly make any of these activities work.

Mr. EWING. Thank you, Mr. Berg. I totally agree, and I see that myself. I think most of our producers are stewards of the land, and we need to encourage them, and I appreciate your comments. I think, though, with the declining role of farm programs, and that looks to be the wave of the future, we are going to have less of any kind of a club over the head of producers to comply.

Mr. ENGLISH. Mrs. Clayton.

Mrs. CLAYTON. Thank you.

Mr. Berg, I would like it if you would just explain what you felt that the conflict may be with SCS implementing the new single compliance with their current compliance plan. You state on page 4 that giving the full year of 1994 to the development of the single comprehensive plan under certain conditions may conflict. Could you explain why you think that may happen?

Mr. BERG. This is a fairly somewhat complicated area that I think we need to examine. If we're referring to section 1238C of the eligible lands in Public Law 101-624—that's the farm bill of 1990—calling for areas that are not more than 1,000 feet from public wells and areas that are in shallow topographic areas or critical crop land areas with hydrologic units identified under section 319,

et cetera, I think we need to examine just exactly how that fits in with these highly erodible crop land compliance plans that are already in place and in most places are being implemented. We hope 1993 and 1994 will be the payoff years on these. That's where we're concerned about giving a higher priority to some other action at this time if it's just a planning process. We are really concerned about getting these plans onto the land.

Mrs. CLAYTON. Mr. Warman, your concern about the criteria that it needed to be spelled out fully, do you feel that it's not spelled out in the current separate bills that we coordinate sufficiently, or does it need to be spelled out? Could you cite where in the bill here that you felt would be the areas where we ought to spell it out?

Mr. WARMAN. Yes. What we were suggesting is that there be some language which would indicate that in this process USDA and the Secretary have to pull together all these different programs, that in that process we don't lose something important in the effort to make an integrated plan. The various different programs that are out there today address certain needs that were seen as important in the past, whether it be wetlands or highly erodible land or clean water or whatever. Well, in that process of integrating those together, we would just like to see some language in the bill here that indicates that the goal of the previous law, whatever problem was being solved, is addressed, that it's not somehow lost in the shuffle.

Mrs. CLAYTON. Do you think this is weaker than the other?

Mr. WARMAN. I think that it could result in a weaker plan as a part of this 6-month-long process of developing these new regulations and integrating all these plans together, and it could result simply on the basis of personality or which agency within USDA actually has more power, whether ASCS or Soil Conservation or some small group over here implementing a wetlands program could get sort of overpowered by the larger group.

Mrs. CLAYTON. Ms. Marks, you had raised the question of liability. What is the liability in the respective laws that we are bringing together now? I mean, how is what's here different, or are you suggesting that we need perhaps to improve the protection of liability of these?

Mr. WARMAN. I think what's different here is a very clear—

Mrs. CLAYTON. I was really addressing this to Ms. Marks.

Mr. WARMAN. I'm sorry.

Ms. MARKS. Well, what this does on page 10 of the bill, lines 12 through 18, is grants very broad liability. For example, what it says is that a comprehensive resource management plan shall be deemed to be in compliance with all conservation and environmental requirements covered by the plan. We don't think the intent here was to weaken existing criteria, but it doesn't say this.

I'll just give you a possible example under this provision. Let's say a plan includes some sort of pesticide reduction. Does that, by its nature, then, exempt a producer from all laws pertaining to pesticide use, including recordkeeping, safe disposal, public health, or whatever?

I guess that we have a lot of concerns with how broadly this might be interpreted, and we feel that if the intent of this provision was to weaken one standard at the expense of another, then we

would strongly object to this provision. If that was not the intent, then we feel the provision isn't necessary, because the plans should address existing environmental and conservation laws, and, therefore, there shouldn't be a need for this provision.

Mrs. CLAYTON. Thank you.

Mr. ENGLISH. Thank you very much.

Mr. Pomeroy.

Mr. POMEROY. Ms. Marks, my questions will be directed to you. I commend you for your testimony. It has, particularly toward the back of your testimony on page 14, three constructive suggestions: Removal of deadlines, phase-in of SCS' responsibilities for plans, and a team approach to creating plans. I'm not saying I absolutely agree with all of them, but they are intriguing ideas that deserve objective consideration as the bill moves forward.

There are other parts, however, of your testimony I find less constructive and actually not particularly well-founded. On page 3 and 4, you suggest that standards ought to be written into the legislation relative to environmental issues, hinting at a set of standards which would require extreme Federal statutory language. Clearly, I think you suggest standards that are more appropriate in an administrative province, not writing into the Federal Code standards on riparian vegetation or strip cropping, where appropriate, for example. Are you suggesting that those standards actually be placed in the Federal Code?

Ms. MARKS. We are concerned that this bill says that the standards should be developed by the Secretary of USDA in consultation with other appropriate agencies. The bill doesn't even say that the existing standards should remain, and we are concerned about the discretion given to the Secretary to determine what are appropriate standards in this legislation. We're very concerned that without a directive from Congress to set meaningful standards, USDA would fail to do so.

Mr. POMEROY. So basically what you're looking at is not the standard itself, but the directive.

Ms. MARKS. I think that what we'd like to see is a nondegradation standard for soil or for wetlands. I think it is perfectly appropriate to say that standards should meet whatever the goals are for the watershed. I think it is appropriate to say that the standards should include meeting the Safe Drinking Act for drinking water. I don't see where that necessarily is too specific to put in this bill.

Mr. POMEROY. Your testimony really hints at a broader array of specifics than you've just indicated, and perhaps it's only my perception of what you're saying here that's at issue. Particularly, philosophical differences with enforcing agencies aren't always best addressed by writing additional appropriate administrative guidelines into the Federal Code.

Ms. MARKS. I think, obviously, there's got to be some flexibility to ensure the site-specific nature.

Mr. POMEROY. I've got to go vote, so I've got to hustle with my questions. I've got two other points I'd like to make. On page 7, you talk about separating enforcement and planning.

Ms. MARKS. Yes.

Mr. POMEROY. I myself think this is a horrible idea. I was formerly a State regulator. I regulated insurance, not agricultural issues. But if I set the standards that someone else was enforcing or if I was enforcing standards someone else had developed, it would have been a bifurcation that really doesn't make any sense at all. I mean, I think that it's extremely dangerous to separate those two, in fact. So I really seriously question the wisdom of that component of your suggestion.

Third, you talked about an overall EPA oversight. I think that really is directly at cross purposes with the goal of the legislation, and that's to bring under one area this vast array of requirements on the American ag producer. Basically, I think that having USDA administering a set of standards subject ultimately to EPA oversight goes against consolidating where the farmer looks and with whom the farmer works in getting these things implemented.

Ms. MARKS. But the danger of not including a major role for EPA—for example, let's say for State water quality agencies pertaining to water quality—is that the State standard for water quality would be weakened in some way. Or taking U.S. Fish and Wildlife out and saying they should no longer have oversight in terms of wetlands leads to the possibility of wetland degradation. So there's got to be a very strong role, depending on the particular resource that we're talking about.

Mr. POMEROY. Do you believe that consolidation would somehow give jurisdictional primacy to SCS over these other requirements and other enforcing agencies?

Ms. MARKS. I'm concerned about that.

Mr. POMEROY. I don't believe that's the intent of the legislation.

Ms. MARKS. I don't think it's the intent, either, but I think the bill has to state that more clearly.

Mr. POMEROY. Actually, legally, the way it works is if it doesn't state the preemption, they're not preempted? That concludes my questions. I think your points on page 14 are good. You should have put those at the front and left some of the front off. Thank you.

Mr. ENGLISH. Thank you very much, Mr. Pomeroy.

We have one member who wants to ask questions, but we do have a vote, so we will recess for a few minutes until we cast this vote, and we'll be right back.

[Recess taken.]

Mr. ENGLISH. The meeting will come to order. Mr. Barlow.

Mr. BARLOW. Thank you, Mr. Chairman.

Out in western and southern Kentucky we're very concerned in the farming community with the paperwork that seems to be building with the regulatory burden and the administrative burden in farm programs, and most of all the uncertainty and worry, apprehension over future regulatory burdens and the costs. People are very upset, and getting more upset all the time. What can we do to allay the fears here and reduce paperwork and get away from regulatory burdens originated by agencies that don't understand farming?

Mr. Berg, please.

Mr. BERG. Mr. Barlow, I have heard the chairman say Monday morning and again this morning that the standard for a farmer's

conservation plan is in the 1990 farm bill, and anything over and above that that's going to be asked of the land user will require that society will bear the cost of doing what has to be done. I think if we start with that premise and amplify really what we mean here, that will clarify what is expected at the land user level.

I couldn't agree more that the paperwork eats up the process. I was out on some of these earlier evaluations of the provisions of the 1985 farm bill, and it was not only the changes in regulations that our field people who were carrying out that responsibility had to deal with, but many of the requirements have to be spelled out with a dotted i and a crossed t, or when they get to checking what is being done, it's difficult to verify what yardstick was put in place.

But I think that's a challenge. How do we avoid that in a more governmentally related activity? If the private sector can do it without that, maybe that's the way to go.

Mr. BARLOW. Ms. Marks.

Ms. MARKS. I think it's a big problem, and I think that the positive aspect of this bill is to try to bring that all together. Ultimately, it is a problem of coordination of different agencies that are not talking to each other either under Federal Government or Federal and State, State and local, and the like. I don't think we're going to ever completely eliminate that problem, but I think there has to be coordination and working together, and hopefully an approach like this would have that happen.

Mr. BARLOW. Another question, regarding ground water. We in western and southern Kentucky are being put on notice that ground water may become a concern within the State environmental agencies, and farmers are very concerned about that. In studying it, we find that there are some real problems here, because the agencies that seem to be approaching the problem are agencies that are more used to dealing with point sources, with outfalls from factories where you know exactly what's coming out. But as you can understand, with ground water there's a lot we don't know in terms of how that ground water is affected by farming activities.

Again, people are very concerned about costs for instance for monitoring wells, as has been talked about out here. And that really doesn't seem to be the proper way to go about doing it anyway, because what we want to do is to stop the problem before it comes up? Because even if pollution does start to appear in a well, there's no certain way of remedying it. We don't know that much about the engineering of the structures and the soils and so forth.

Does anybody want to comment on that from the panel?

Ms. MARKS. Yes, I can comment on that. I think that what's necessary particularly with ground water is to look at either of two possible approaches, which is very careful and very precise and a minimum application of chemical inputs to make sure that the problem is alleviated, and, obviously, it's just got to be very carefully done, or to move into more sustainable natural methods. I think that what we're talking about is we've got to integrate soil testing and really, really being careful and precise and moving away from sort of massive applications of these chemicals.

Mr. BARLOW. So what you're saying, then, is that there are a lot of unknowns here, that there's a lot more research that has to go on, and that possibly the agency that would be in the best position to work with farmers would be an agency that's sensitive to the unknowns and that is staying abreast of the research in tailoring, say, best management practices to the most recent knowledge?

Ms. MARKS. I think that there is a role for USDA, but there's also a role for, for example, State water quality agencies that are monitoring and looking at the results of the practices. There's a role for both agencies, and the agencies have to work together.

Mr. BARLOW. Thank you, Mr. Chairman.

Mr. BERG. Mr. Barlow, may I add something?

Mr. BARLOW. Yes.

Mr. BERG. The State geologists in practically every State are the people that have really the knowledge of ground water, probably better than any other discipline, and we need to draw on their competence. Now, in Maryland we're having some experiments done on the Eastern Shore with some deep wells that are beginning to show the effects of agricultural practices on ground water, but we need a lot more of that information. What has driven the sustainable ag movement as much as anything has been the concern about ground water.

Mr. BARLOW. In that situation, though, USDA and SCS are the ones who have taken the lead with the geologists, right?

Mr. BERG. And the research community through the universities.

Mr. BARLOW. So SCS might be the best agency in the USDA for keeping farmers abreast with best management practices. Is that right?

Mr. BERG. I would agree.

Mr. BARLOW. Thank you.

Thank you, Mr. Chairman.

Mr. ENGLISH. Thank you. I appreciate that, Mr. Barlow.

I want to thank all of our witnesses for your testimony, and I appreciate the discussion that we've had. I think it's been helpful. We're looking forward to our next hearing, which will be, I believe, the 14th of this month, and we're looking forward to additional testimony at that time.

As I mentioned, this legislation, I think, is far more far-reaching than many people would think at first glance, and we do want to make sure that we work our way through it and that it does have the desired impact.

Ms. Marks, I do want to visit with you at some point about the points that you raised, and, Mr. Warman and Mr. Berg, I think you made some excellent points, and we'll also see if we can make sure that they are taken into consideration.

So thank you all very much, and we'll recess subject to the call of the Chair.

[Whereupon, at 11:35 a.m., the subcommittee adjourned, to reconvene, subject to the call of the Chair.]

[Material submitted for inclusion in the record follows:]

Statement for use by the U.S. House Agriculture Subcommittee on ENVIRONMENT,CREDIT, and RURAL DEVELOPMENT on April 1,1993 on the SITE-SPECIFIC AGRICULTURAL RESOURCES MANAGEMENT ACT of 1993:H.R.1440,by Norman A.Berg Washington Representative for the Soil and Water Conservation Society (SWCS).

Mr. Chairman, members of the Committee, I am Norm Berg, a former Chief of the USDA-Soil Conservation Service (SCS). The Soil and Water Conservation Society is a multidisciplinary membership organization. We advocate the protection, enhancement, and wise use of soil, water, and related natural resources. Through both education and example, we promote an ethic that recognizes the interdependence of people and the environment. We are pleased to be asked to comment on H.R.1440 "to amend the Soil Conservation and Domestic Allotment Act to provide for comprehensive resource management plans on land used for the production of agricultural commodities, and for other purposes". We would appreciate the opportunity to submit additional views when our Board of Directors has the time needed to develop a position statement on this new bill. The proposed legislation with the seven findings (SEC.3 FINDINGS), amply demonstrates a need to correct a rapidly developing problem facing users of land for agriculture. Many of the members of our Society have direct contact with agricultural land users. They know first-hand of the present requirements leading to the development of single purpose plans that may conflict with the purposes of another required plan. We intend to monitor the legislation as it moves through the process of being enacted. SWCS will be pleased to assist your Committee as you seek solutions to a planning problem mandated, in many cases, by law and/or agency regulations, i.e. 1.3 million Conservation Compliance plans.

Planning is a process used, since the beginning of the soil conservation movement in the mid-1930's by the SCS and the local conservation districts, to assist landusers decide how to improve and maintain soil, water, and related resources. It provides an organized, consistent, and orderly method of knowing the landusers' objectives, identifying problems, evaluating treatment alternatives, and reaching decisions needed to begin implementation of their plan. My first assignment, fifty years ago last month as a new SCS career conservationist in Idaho, was to develop basic plans with farmers and ranchers for all land and all natural resources under their management. Later, when I rejoined the SCS after Marine Corps duty in WW II, SCS was assigned site-specific planning requirements for a landuser to qualify for cost-share payments from the Agricultural Conservation Program (ACP). These were the permanent-type soil conservation measures requiring technical expertise. I recall this was the first time that SCS gave field people the option of a partial or an "initial plan" as we worked with landusers. Along with that responsibility Congress provided, in the annual appropriation for ACP, a transfer of up to five percent of the cost-share money to be used by the SCS for their technicians. Despite the early requirement of a single purpose ACP plan, the SCS still promoted the concept of a comprehensive plan.

Each ACP participant was asked to become a cooperator with their local conservation district(if one had been created in their county).The SCS field conservationist was directed to work with those ACP participants and to eventually develop a complete conservation and comprehensive plan.History shows that the resources needed by SCS and the districts were not available,in some locations,to meet that requirement,Later,(August 7,1956)Congressional action created the Great Plains Conservation Program(GPCF).I had leadership for the program and its implementation,first in South Dakota,later at SCS headquarters,requiring the landuser to have a comprehensive resource plan to qualify for a GPCF contract.That program,with contracts ranging from three to ten years,guaranteed a landuser the needed technical and cost-share assistance to fully implement their conservation plan.It has been a highly successful law,extended until 2001 by P.L.101-624,with an authorized funding level of \$ 1 billion.Fiscal year 1993 funding is \$ 25,271,000.That law along with several others for soil,water, and watershed conservation work,could well use more funds each year.SCS has a backlog of applications each year for programs with conservation and environmental benefits.Therefore,priority consideration of new legislation must be the ability to deliver.Government can build expectations that offer promising solutions to problems,but end up,too often,as only a piece of paper on the shelf gathering dust.I know of your concern on these matters,Mr.Chairman,as you have testified many times for adequate funding for the several soil and water conservation programs in USDA.

H.R.1440 seeks to correct problems from a long history of law or regulation requiring"conservation plans".In the Food Security Act of 1985(P.L.99-198)the following actions are:
Subtitle D-Conservation Reserve,Sec.1232.(a)Under the terms of a contract entered into under this subtitle,during the term of such contract,an owner or operator of a farm must agree-(1)to implement a plan approved by the local conservation district for converting highly erodible cropland---to a less intensive use---substantially in accordance with a schedule outlined in the plan.36 million acres are in CRP.
Subtitle B-Highly Erodible Land Conservation,Sec.1212(2)If,as of January 1,1990,or two years after the Soil Conservation Service has completed a soil survey for the farm,whichever is later,a person is actively applying a conservation plan based on the local Soil Conservation Service technical guide and approved by the local soil conservation district,in consultation with the local committees---,such person shall have until January 1,1995,to comply with the plan without being subject to program ineligibility.There are 1.3 million plans.

The Food,Agriculture,Conservation, and Trade Act of 1990(P.L. 101-624)added several requirements for plans.For example: Chapter 3-Environmental Easement Program,Sec.1239A(a)Duties of Owners-(1)PLAN-In conjunction with the creation of an easement on any lands in this chapter,the owner of the farm or ranch---must agree to implement a natural resource-plan.

Subchapter C-Wetlands Reserve Program, Sec.1237 A Easements (a) IN GENERAL-To be eligible to place land into the wetland reserve under this subchapter the owner of such land shall enter into an agreement with the Secretary-(1)to grant an easement on such land to the Secretary(2)to implement a wetland easement conservation plan as provided for in this section. Also, (c) RESTORATION PLANS(1)PLANS-The development of restoration plans under this section shall be made through the agreement of the local representative of the Soil Conservation Service and a representative of the Fish and Wildlife Service. The Agricultural Water Quality Incentives-Chapter 2, SEC.1238 B (3)states under duties of owners and operators-In order to receive annual incentive payments must agree-(A) to implement a water quality protection plan approved by the Secretary and the law describes nine items to consider for inclusion in the water quality plan. There are other actions in P.L.101-624 relating to single purpose plans, including Subtitle D-OTHER CONSERVATION MEASURES:SEC.1451. Integrated Farm Management Program Options(f)Requirements of the Plans-Each plan approved by the Secretary shall include six requirements. Number (4)-to result in(A)the maintenance or enhancement of the overall productivity and profitability of the farm, and (C)the protection of water supplies from contamination by managing or minimizing agricultural pollutants if their managing or minimization results in positive economic and environmental benefits.

I serve on the governing board for Maryland's Anne Arundel Soil Conservation District. As a member of the Agricultural Sediment Task Force we are assisting the Maryland Department of the Environment as they promulgate regulations for non-point source water pollution. The latest draft defines their Soil Conservation and Water Quality Plan(SCWQP) as a land use plan for a whole farm prepared in accordance with the SCS Planning Procedures Handbook, the SCS Maryland Technical Guide the SCS Field Office Technical Guide. The reason for the plan is to make the best possible use of soil and water resources, and to minimize the movement of sediment, animal wastes, and nutrients or agricultural chemicals into the waters of the State. A landuser implementing the plan will not be subject to any penalties for a violation of Environmental laws of the State of Maryland. Therefore, H.R.1440, SEC.4 Purpose (3)"by providing a more efficient and effective method to coordinate Federal, State, and local conservation and environmental requirements with respect to individual land units"recognizes the need for a partnership with nonfederal actions already underway in some regions of the United States. Sec.5(C)(7) specifies that agreements may be entered into with States.

SEC.4 of H.R.1440 lists five objectives that are excellent. It makes sense that, if at all possible, all plans required by agencies with respect to soil, water, and resource and environmental concerns on agricultural land be integrated into a single comprehensive, site-specific plan for the land involved prior to the beginning of the next century. Its a worthy goal.

After consulting with SWCS's staff in Ankeny, Iowa on this testimony on H.R.1440 we felt it timely to agree in principle with the need for comprehensive site-specific resource management plans on land used for the production of agricultural commodities. We strongly endorse the planning process as practiced for decades by SCS and conservation districts. We are pleased that, for the first time in my memory, this bill allows a full discussion of conservation plans, why they are needed, and how to improve the process. The impact on the land-users of single purpose plans that are often uncoordinated, can lead to lacking balance among environmental quality, the efficient use of resources, and agricultural productivity. The plan should be a means to achieve the wise use of resources. Presently, the finding of as many as 15 programs that provide for the development of plans, including as many as six that relate to conservation and the environment, is made even more challenging as nonfederal governments add their requirements for comparable plans for the use of land and water.

Mr. Chairman, pending more review of H.R.1440, including all the consequences of it being enacted, SWCS would welcome the opportunity to provide the Committee a position statement. For this hearing we offer these comments and some questions.

First, the time requirement (180 days after enactment) to issue regulations to establish a program to develop site-specific integrated resource management plans for agricultural land is, in my opinion, too demanding. A serious problem that SWCS found during our field evaluations, as USDA implemented the several conservation provisions of the 1985 FSA, related to the many changes in rules and regulations sent field people. It would greatly benefit those who implement programs to be certain that enough time and testing of regulations is done. The objective should be to have a minimum of change after regulations are issued. This bill would require substantial change in the operations of several federal agencies.

Second, requiring that SCS give priority for the full year of 1994 to developing single comprehensive plans under certain conditions may conflict with the very heavy demands that relate to the implementation of Conservation Compliance plans. 1993 and 1994 are without question the time that many land-users will install conservation measures to avoid penalties. Also, the reference in the bill to section 1238C may relate to language in P.L.101-624, not the Food Security Act of 1985. The eligible lands described in those seven categories may well need priority attention. Perhaps this needs further review.

Third, although the January 1, 1996 deadline for requiring full implementation of a single comprehensive plan law, may be good scheduling for the relevant USDA agencies it may not be met.

Fourth, SWCS has carried out two field evaluations on the USDA implementation of all the conservation provisions of the 1985 FSA. This Committee held a good hearing on this issue in 1992.

You may recall that during our evaluation some SCS personnel needed more training to adequately meet the responsibilities. Many have not been trained, nor have had the experience of a comprehensive resource management planning method of working with agricultural land users. The enactment of this bill will call for agencies or entities, not in USDA, to consider making agreements with the Secretary of Agriculture. SCS will need that type of assistance whenever site-specific plans are required, especially on so called "environmental" issues.

State technical committees were authorized in SEC.1261 of P.L.101-624. They will have a role to play and we are pleased to note that they have a function in the proposed bill. The role of local conservation districts in the planning and the implementation of plans may be covered in the agreement with states. They are, in many states, viewed as "subdivisions". However, in my opinion, they deserve special mention in the bill.

Our questions relate to the assignment of the SCS as the key agency for several provisions of H.R.1440. As a long-term and vocal supporter of SCS I'm pleased that Congress would have this confidence in their ability to deliver. Some may disagree as the several agencies with responsibilities for permits, exemptions, cost-sharing, etc. will probably have reasons for maintaining their present method of delivery of services. The major challenge will be the needed resources to perform. Can we assume that SCS will be reimbursed by the other agencies as delegated under certain agreements? Some tasks may need funding prior to reimbursement. Can up-front funding be given? The landusers, in many cases will need additional incentives to implement their comprehensive plans. How can assurance be given to those implementing their site-specific plans that the needed financial and technical help is provided on time?

The legislative history of the bill should include several areas that will help clarify the need and the intent of H.R. 1440. What are those 15 USDA programs and the six relating to different conservation and environmentally-related plans now in effect in regard to land? What is meant by "one integrated resource management plan"? It would help to have discussion of "practical and economically feasible site-specific resource measures that must take into account the economic viability of agricultural land units involved". Finally, the end result of the proposed bill is to give an agricultural landuser the guarantee of "Liability Protection" as stated in H.R.1440. The Conservation Compliance provision of the '85 FSA is now being widely implemented. What will the record show by 1995? In my opinion, field people will want assurance that their decisions, as they assist the landusers with their plans, will have top support for this very demanding responsibility. As additional compliance requirements are added to any agency the professional resources needed must also be considered. Thank you for requesting the views of SWCS on H.R.1440. We will try to answer any questions that you may have on this statement. SWCS will monitor the progress of H.R.1440.

(Attachment follows:)

Norman A. Berg

In 1941 he received his B.S. from the University of Minnesota and a Master in Public Administration degree from Harvard University in 1956. He has other advanced degree courses.

He was appointed Chief of the Soil Conservation Service in September, 1979. His career in SCS included work in Idaho and South Dakota. He also served as Deputy and Associate Chief. He April, 1982, he retired from SCS-USDA, after nearly forty years in the U.S.D.A. and as a U.S. Marine in World War II.

In May, 1982 he became Senior Advisor to the American Farmland Trust (AFT). This non-profit organization chartered in 1980 has 20,000 members, and is dedicated to protection of America's valuable agricultural resources.

On January 1, 1983 he became the Washington Representative of the Soil and Water Conservation Society (SWCS). He is a Charter member (1946), and a Fellow (1963), of the Society. In 1990 Berg received their Hugh Hammond Bennett Award.

He is a member of the governing board for the Anne Arundel Soil Conservation District, Maryland (1982-present).

Berg also is an officer (Treasurer for the Natural Resources Council of America (NRCA), an organization with eighty members.

He was given the USDA Distinguished Service Award in 1973. In 1980 he received the National Wildlife Federation's Conservation Award. In 1984 the Agricultural Marketing Association of America gave him their National Award for Agricultural Excellence. He was a charter member of the Senior Executive Service. He was one of the first to receive the Presidential Rank Award (Meritorious Executive) in September, 1980.

He has written extensively on soil, water, and related resource issues, and has participated in numerous conferences as a keynote speaker, and as a moderator of many seminars and forums.



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H.R. 1440

Site-Specific Resource Management Plans

Testimony of the Natural Resources Defense Council

Before the

**Subcommittee on Environment, Credit
and Rural Development,
House Committee on Agriculture, U.S. Congress**

by

**Robbin S. Marks
Senior Program Associate**

April 1, 1993

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I. INTRODUCTION

The Natural Resources Defense Council (NRDC) appreciates the opportunity to testify on the Site-Specific Agricultural Resource Management Act of 1993.¹ Our organization has maintained a longstanding involvement in agricultural issues, including the conservation and environmental provisions of the 1985 and 1990 farm bills.

We commend this bill's focus on farm planning to accomplish environmental goals. Site-specific resource management planning, if properly designed and implemented, can promote environmental protection in a farmer-friendly way.² However, we have many concerns with the bill as drafted, and the legislation would need to change in some important ways for NRDC to offer its support. Our recommendations are discussed in this testimony.

¹ NRDC is a national, non-profit environmental organization with more than 170,000 members, dedicated to the protection of natural resources, public health, and environmental quality in the United States and worldwide. Through various program activities, including those devoted to agricultural policy, pesticide safety, clean water, western water pricing and the international environment, NRDC promotes adoption of farming systems that protect and enhance natural resources.

² It should be noted that the problems with contradictory and overlapping plans by USDA are of a voluntary, rather than regulatory nature. A farmer faced with a morass of planning requirements could always choose to forgo cost-sharing assistance or commodity benefits.

These comments were drafted on short notice and may not represent all of our ideas on resource management planning. We may wish to submit further comments, once we have the time to further reflect upon the legislation.

II. LIABILITY PROTECTION

We strongly oppose the bill's provision that farmers who implement plans will be exempted from "all conservation and environmental requirements covered by the plan with respect to such land unit." Conservation and environmental requirements encompass a multitude of independently-written federal, state, and local laws and standards. Exemption from these could jeopardize human health and environmental protection.

It is unlikely that this provision was intended to grant a broad and unqualified exemption. However, if this was the intent, for example, a producer who agreed to reduce pesticide inputs could be exempt from requirements pertaining to pesticide recordkeeping, proper disposal of pesticide containers, and farm worker health safety requirements, etc. because the plan addressed pesticide use.

Producers who implement plans should face existing conservation and environmental laws and requirements, just like anyone else. If the intent of this bill is to have resource

management plans meet or exceed existing environmental standards or criteria, farmers need not fear conservation or environmental laws, because through implementation of their plans they will already be meeting those requirements.

III. ELEMENTS OF THE PLANS

A. Plans Should Include Standards to Protect Human and Environmental Health

The bill provides that the Secretary of Agriculture, acting through SCS, shall establish criteria and standards for the resource management plans, in consultation with Federal and State agencies, and State technical committees. We do not think that it was the intent of this bill to weaken existing standards, but a statement is needed to clarify this point.

This bill for resource management plans offers the opportunity to move beyond existing and sometimes weak standards and to provide true soil, water, and habitat protection. Why not, in the context of a voluntary program that provides for targeted cost-share assistance, set some basic, economically achievable minimum standards for environmental protection?

Minimum standards should include the following: a nondegradation standard for soil and wetlands, a substantial

reduction in chemical inputs, riparian vegetation or strip cropping where appropriate, pesticide record-keeping, and soil-testing. Where water quality is of concern, the plans should address the specific problem identified in the watershed or in the groundwater. Obviously, appropriate exceptions should be included. Inclusion of standards and criteria necessary to protect human and environmental health is critical to our support of this legislation.

We are concerned that absent any directive from Congress to do otherwise, USDA would fail to set meaningful standards. A new Administration offers new opportunities to affirm USDA's commitment to environmental protection, but USDA's track record on setting environmental standards leaves room for considerable improvement. It was only six months ago that SCS floated draft proposed regulations to substantially weaken swambuster rules.³ USDA's unwillingness to include quantitative standards for conservation compliance in 1987 has largely resulted in our present situation in which farmers continue to receive commodity benefits for plans that fall short of achieving significant erosion-control. In its 1992 evaluation of conservation

³ The draft proposed rule would have expanded the "minimal effect" and "converted wetland" exemptions under the farm bill's swambuster provisions, despite the draft's admission that more than half of the "farmed wetlands" in the prairie pothole region of the Northern Plains and extensive wetland areas in the lower Mississippi Valley would have been exempted from swambuster provisions. see Office of the Secretary, USDA, "Draft Proposed Rule, Highly Erodible Land and Wetland Conservation," 7 CFR Part 12, (May 1992).

provisions of the 1985 Food Security Act, the Soil and Water Conservation Society noted that for the farms it analyzed in 1990-1991, only 44% of the fields studied had plans designed to achieve the soil loss tolerance level, and 23% of those fields would be likely to erode at rates above 2T after plan implementation.⁴

If standards necessary to protect human and environmental health can not be written into this bill, the legislation should at the very least state that plans must meet all applicable minimum standards. This provision would assure that SCS would not weaken one standard to meet another.

B. Management Practices Should Be Varied and Economically Feasible

Site-specific management practices are key to effective implementation of comprehensive resource management plans. The bill correctly notes that the plans should "be specifically designed for the land unit, and each subpart thereof, designed in the plan." The bill further states that plans should provide for "various management alternatives...to meet the conservation and environmental concerns with respect to the land involved."

⁴ Soil and Water Conservation Society, Implementing the Conservation Title of the Food Security Act, pp. 36-37, (Ankeny, Iowa, 1992).

In providing technical assistance to producers under conservation compliance, SCS has emphasized conservation tillage. When I spoke to farmers in Kansas recently, I was asked about SCS's residue management program. I had to remind the audience that the program being referred to was an erosion-control program, of which conservation tillage was but one method. In Iowa in 1992, over 9 million acres were utilizing conservation tillage, predominantly due to farm bill requirements.⁵ Clearly, significant environmental benefits are afforded by conservation tillage. The problem is the lack of attention to other methods such as contouring, strip cropping, field borders, grassed waterways, and terraces which totalled less than 1 million acres in Iowa in 1992.⁶

We need to ensure that a broad range of practices are utilized for resource management plans. For example, sustainable farmers should be credited for their practices, rather than pressured into adopting more conventional or costly measures.

C. Cost-share Assistance Should Be Targeted

An important and helpful element of this bill is its provision that cost-sharing be directed to resource management

⁵ Soil Conservation Service, USDA, "INF Conservation Progress Figures," (Des Moines, Iowa, March 11, 1993).

⁶ Id.

plans. The availability of cost-share assistance will make assumption of the practices involved more feasible and will create an incentive to farmers to request these plans.

IV. COMPLIANCE, EXEMPTIONS, AND WAIVERS

A. Leave Responsibility for Compliance, Exemptions, and Waivers should remain with the Present Agencies

The legislation provides that SCS is responsible for "determining compliance with the terms of the plan and any permit, exemption, and waiver issued" in connection with the plan. This provision gives SCS broad enforcement powers, especially if federal and state agencies delegate their responsibilities for conservation and environmental requirements to SCS through cooperative agreements.

Shifting enforcement powers to SCS is not a necessary component of the planning process. The job of writing plans which incorporate an array of environmental requirements is by itself a large and complex task that will take enormous resources and attention by SCS. Enforcement should remain with existing agencies.

SCS's record on enforcement is not favorable.⁷ SCS data shows that in 1991 and 1992 over 90% of all producers were deemed to be actively applying their conservation plans -- an impossibly high figure.⁸ A more probable estimate of plan implementation is that of the Soil and Water Conservation Society which demonstrated that only about 60% of the farms it examined were actively applying the practices required in their conservation compliance plans.⁹ The disparity between the figures shows the formidable task SCS faces in improving its existing enforcement capabilities.

Nor should SCS be given the authority to grant waivers or exemptions related to resource management plans. The Office of the Inspector General, in its recent analysis of conservation compliance in 30 sample counties, showed that SCS was rescheduling practices and utilizing certain variances to ensure that producers out of compliance would continue to receive commodity benefits.¹⁰ The same office recently completed an

⁷ As disappointing as SCS's record has been on enforcement of existing conservation laws, ASCS's has been worse. Through the ASCS appeals process, close to half of the small number of commodity benefits denied for conservation violations have been reinstated. see Center for Resource Economics, Countdown to Compliance, pp. 14-15 (Washington, D.C., 1993).

⁸ Id.

⁹ Soil and Water Conservation Society, supra note 4, p. 50.

¹⁰ Office of the Inspector General, USDA, Conservation Compliance Provisions, Washington, D.C., Audit Report No. 50600-3-KC, pp. 10, 19-20, 34-35 (Kansas City, Missouri, August, 1992).

evaluation of swampbuster implementation and found that ASCS and SCS inaccurately approved 37% of the exemptions to wetland conversion provisions evaluated, resulting in over \$1 million in farm program payments and loans to producers, which should not have been granted.¹¹ These actions call into question the assumption of additional powers to grant exemptions by SCS.

B. An Oversight Role by Environmental Agencies Should Be Required

This bill provides an opportunity to accomplish two important goals: to foster complimentary and coordinated efforts on the part of agencies that require farm planning and to ensure environmental compliance. A way to accomplish both objectives is to require oversight and evaluation, where appropriate, by EPA, U.S. Fish and Wildlife Service, and state water quality agencies. These agencies should be involved in training SCS staff, developing practices determined suitable for addressing the resource problem area, and reviewing a representative sample of plans drafted by SCS each year.

¹¹ Office of the Inspector General, USDA, USDA Wetland Conservation Provisions, Washington, D.C., Audit Report No. 50600-2KC, p. 2 (Kansas City, Missouri, December 1992).

c. Violations of Plan Terms Should Result in Penalties

This bill provides for various incentives for farmers to comply with the terms of their plans, including cost-sharing assistance and liability protection, but does not authorize any penalties if farmers violate the terms of their plans.

Appropriate penalties should be included that address the nature and magnitude of the violations. At the very least, farmers should face existing penalties, as well a cancellation and repayment of any cost-sharing assistance received for implementation of practices related to the plan.

D. Public Participation Should Be Increased

This bill should offer the opportunity for increased public participation in plan compliance. Farmers who understand the nature and magnitude of environmental degradation, particularly water quality, are more likely to request resource management plans and to implement them properly. In Oregon, government, environmental, and agricultural groups came together in 1992 to evaluate the multitude of watershed planning efforts proceeding around the state.¹² Together they adopted a number of principles for resolving watershed management problems, including the need for local interests to "develop some 'ownership' in the

¹² Oregon Watershed Forum, Improving Local Efforts to Resolve Watershed Management Problems, Columbia-Blue Mountain RC&D, p. 11, (Pendleton, Oregon, March 17-18, 1992).

process and the solutions" and the need for a joint data base "created by all participants." A way to meet these goals is to allow trained farmers to monitor water quality in watersheds threatened or degraded by pollution.

Another way to open-up the process is to allow farmers and citizens to appeal weak determinations by SCS concerning compliance with resource management plans. Conservation compliance, sodbuster and swamplibuster laws never allowed farmers the right to appeal a weak determination by SCS or ASCS, so such determinations have gone unchallenged. Appeals by farmers and other members of the public could ensure that agencies take their enforcement roles seriously.

V. WATER QUALITY

A. Plans in Areas with Water Pollution May Not Sufficiently Address Water Quality

The very commendable intent of this legislation is to address water quality concerns and to prioritize planning efforts in areas with water quality problems. An obstacle to adding a water quality component to plans is the uneven implementation of section 319 requirements to address polluted runoff by States. State water quality monitoring programs often ignore runoff impacts and create inaccurate watershed assessments. For

example, in EPA's 1990 National Water Quality Inventory, Georgia, a state with significant agriculture production, reported no water quality impacts on its rivers and streams from agriculture.¹³ This is but one of the most egregious examples of widespread "monitoring gaps."

In designing plans, SCS may discover that in certain states information concerning the nature and extent of surface and ground water contamination is woefully lacking. Plans can only address known problems. Therefore, the reasons for plan revisions under this bill must be expanded beyond those of "upon request of the agricultural land user involved" and "to reflect any changes in the conservation and environmental requirements." Two other provisions must be added -- "if new information is learned," and "if watershed water quality goals change." As states' monitoring efforts improve and new data reveals either new sources of pollution or pollution in higher amounts, or all landowners surrounding a watershed collectively determine that certain water quality goals are important, plans should be changed accordingly.

¹³ U.S. EPA, National Water Quality Inventory, 1990 Report to Congress, Report No. EPA 503/9-92/006, p. 12, (Washington, D.C., April 1992).

B. A Watershed-Based Approach For Polluted Runoff is Needed

If total resource management plans were to meet strict standards relating to water quality, it is likely that progress would be made in meeting water quality goals. However, this bill cannot correct the serious and profound problems surrounding Section 319 of the Clean Water Act, and the bill can not be viewed as a substitute for the Clean Water Act Reauthorization. What is needed in the Clean Water Act Reauthorization is a watershed-based approach in which in targeted watersheds, all landowners who contribute to water quality problems must create and implement plans that address water quality. If resource management plans under this bill resulted in water quality protection measures, they could substitute for water quality plans under a new Clean Water Act.

VI. CONSTRAINTS TO EFFECTIVE PLAN WRITING AND APPROVAL

For SCS to assume responsibility for consolidation of existing USDA plans would be a tremendous task involving the rewriting of thousands of plans. An even greater task for the agency would be the assumption of the planning activities of federal and state agencies through cooperative agreements.

For SCS to feasibly assume new responsibilities for approving plans that address a multitude of resource areas will require the agency to attain new capabilities and areas of expertise. Even providing that Federal and State agencies with expertise are able to offer assistance and that SCS requests such help, under this bill SCS is ultimately responsible for approving the plans and ensuring that farmers receive the technical assistance needed. SCS brings considerable expertise to planning for soil erosion. However, resource management plans could require an understanding of practices as diverse as silviculture, nutrient management, sludge application, and integrated pest management. While SCS has been increasing its capabilities in a variety of areas, many SCS field personnel will require training to ensure the plans meet specifications.

The danger of approving inadequate plans is that environmental requirements may be compromised and farmers will falsely believe that they are properly addressing the resource impacts of their farming operations. We recommend three changes to the bill to ensure the quality of the plans: a removal of deadlines in the bill, a phase-in of the SCS's responsibilities for plans and a team approach to creating plans.

The bill should remove the deadlines that require that plans for soil, water, plant, and animal resources be written for all agricultural land for which more than one plan is required by

USDA by January 1, 1996, with priority given to environmentally sensitive areas during 1994. Environmentally sensitive areas could encompass thousands of acres of farmland. For surface water alone, according to a 1990 EPA compilation of state data, collected in 1988 and 1989, agricultural runoff contributes to the impairment of over 100,000 river and stream miles nationwide. Almost 2 million acres of impaired lake acres nationwide are polluted by agricultural runoff.

The daunting task of plan complexity and the number of plans that might be required under a scenario in which SCS assumes responsibility for all planning nationwide, argues for a phase-in of plan responsibility by SCS. Even with a high concentration of staff devoted to swambuster, sodbuster, and conservation compliance plan-writing, the agency is finding it difficult to meet its present responsibilities, without assuming massive new tasks. The agency estimates that it would need 170% more staff years to fully accomplish the goals of the Food Security Act.¹⁴

Under a phased-in process, SCS could assume responsibility for USDA plans for the first few years following enactment of the bill, with priority given to environmentally sensitive areas. Several years after experience with all USDA planning functions,

¹⁴ Soil Conservation Service, USDA, "Food Security Act Workload Analysis Table," (Washington, D.C., January 1992).

SCS could then enter into cooperative agreements with other federal agencies.

After assumption of any federal plan-writing responsibilities, and before any cooperative agreements are signed with states, an evaluation should be done to assess the quantity and quality of the plans, including a nationwide sampling of plans. This evaluation should indicate the strengths and weaknesses of the plans, and allow SCS to make any programmatic changes needed before assumption of the massive and varied responsibility for State planning functions.

State plans may encompass a number of unique features, such as pest management, groundwater protection, nutrient management, and sludge application permits. Until SCS has garnered significant experience in developing integrated management plans, we would oppose authorizing SCS to develop cooperative agreements with states for these functions.

Finally, throughout the planning process, SCS should be directed to assemble a team of experts knowledgeable about local pollution problems and potential solutions. The Farm Assist Program, first begun as a cooperative effort to voluntarily address groundwater contamination between Region V EPA, Wisconsin Extension Service, Minnesota Extension Service, and the Soil Conservation Service provides an example of a successful team

model approach. This program brings together a range of agencies, organizations, and the private sector to provide group assessments of pollution problems, educational information, and technical assistance.¹⁵

VII. CONCLUSIONS

For this bill to ensure that resource management planning protects the environment and rewards farmers who practice land stewardship several fundamental changes are needed. Farmers should not be offered liability protection, standards to protect the environment and human health should be added, determinations of compliance and exemptions and waivers should remain with present agencies, environmental agencies should be given an oversight role, appropriate penalties should be applied, and public participation should be increased. Also, planning deadlines should be removed and replaced with a phased-in assumption by SCS of new responsibilities.

¹⁵ G.W. Jackson, "Farmstead Assessments -- A Voluntary Approach for Identifying and Implementing Farmstead Practices to Prevent Pollution," Speech before the National Watershed Conference, (Arlington, VA, March 24, 1993).



American Farmland Trust

STATEMENT ON H.R. 1440, THE SITE SPECIFIC AGRICULTURAL RESOURCES
MANAGEMENT ACT OF 1993
BEFORE

THE U.S. HOUSE OF REPRESENTATIVES AGRICULTURE COMMITTEE,
SUBCOMMITTEE ON ENVIRONMENT, CREDIT AND RURAL DEVELOPMENT
APRIL 1, 1993

BY

TIMOTHY W. WARMAN, DIRECTOR OF FEDERAL POLICY
AMERICAN FARMLAND TRUST

The American Farmland Trust is a 12 year old nonprofit organization seeking to stop the unnecessary conversion of farmland to urban uses and to encourage agricultural practices which conserve natural resources. We appreciate the opportunity to present our views on this important piece of legislation, which calls for merging as many as six types of on-farm conservation plans into a single "total resource conservation plan" for producers to follow, and consolidating authority for developing and funding such plans in the Soil Conservation Service.

The American Farmland Trust (AFT) enthusiastically supports these concepts. They are a crucial step in the direction of fully integrating resource conservation into agricultural policy, a process begun in the Food Security Act of 1985, reinforced by the 1990 FACTA, and which we hope will be continued by H.R. 1440 and the next omnibus farm bill. The era of piecemeal conservation plans, addressing a single issue or meeting the goal of one agency must end. America can no longer afford the inefficiency and reduced effectiveness that results from the mixed signals of conflicting plans.

At a recent conference on future directions for national agricultural policy, AFT's President Ralph Grossi called for a "Green Evolution" -- a gradual but deliberate shift in policy priorities away from market-distorting price-support programs and toward resource stewardship programs in which the public would provide significantly greater conservation cost-sharing to producers. A key feature of this proposal would be incentives to producers for diligently complying with reasonable conservation standards. The total resource conservation management plans that H.R. 1440 envisions could eventually become the mechanism for implementing this broad strategy for moving in the direction of an American agricultural system,

that is in harmony with the environment;
that supports producers as good stewards of the land;
that results in genuine economic efficiency and competitiveness; and
is more sustainable than what exists today.

I would respectfully call your attention to Mr. Grossi's remarks and, with your permission, incorporate them into the hearing record.

I would also like to address several specific points in the proposed legislation.

Maintaining Established Conservation Goals

1. Paragraph (6) in the Findings section identifies a need to "approach conservation and environmental problems on a more rational basis in order to promote practical and

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economically feasible site-specific resource measures that take into consideration the economic vitality of agricultural land units involved..." We trust this should be interpreted to mean that plans will be developed with conservation measures that are both effective in addressing resource needs and are affordable to the farmer with cost-sharing as needed. We cannot support weakening established conservation goals.

We believe the process for establishing Criteria for Comprehensive Resource Management Plans must go beyond simply consulting with Federal and State agencies and State Technical Committees. The comprehensive plan should substantially meet the conservation or environmental goals already established in the various conservation plans being replaced. Unless this is clearly spelled out in the legislation, we are concerned that the public will perceive the comprehensive approach as a weakening of agricultural conservation. We are confident this is not the intent of the sponsors.

Agricultural and Natural Resources Conservation Service

2. AFT strongly supports establishing the Soil Conservation Service (SCS) as the single Federal agency responsible for development and implementation of integrated resource management plans for agricultural lands. SCS alone has the technical expertise that will be needed. In keeping with the intent of the legislation to integrate conservation systems, AFT would strongly encourage that SCS itself be restructured as, perhaps, an Agriculture and Natural Resource Conservation Service to emphasize and facilitate its new, holistic resource management role. In addition, we would suggest that consideration be given to integrating the various cost-share programs, supplemented by additional assistance payments derived from commodity programs, into a single comprehensive Agriculture and Natural Resources Conservation Fund.

Enforcement

3. Paragraph (2) of the Program Requirements section states "the Soil Conservation Service shall be responsible for, among other things, determining compliance with the terms of the plan and any permit, exemption, and waiver issued [in] connection with therewith." This provision continues the enforcement role SCS has been struggling with for several years now. Nonetheless, we know of no other agency qualified to evaluate implementation of these new comprehensive site-specific plans on the farm. We would encourage SCS (or the new Agriculture and Natural Resources Conservation Service) to develop a methodology for determining compliance that involves peer review by local farmers backed up by SCS personnel from outside the local office. Once the local farmers and SCS personnel make a determination of non-compliance, they must be supported by the national office.

Regulations and Implementation

4. The Establishment of the Program section sets very ambitious goals for implementation. To do an effective job of integrating the various programs and plans that currently exist into one comprehensive plan will require carefully crafted regulations. Perhaps USDA can do this in six months, but we suggest they be given up to a year if needed. Furthermore, it appears likely that, given its present level of funding, SCS will require assistance from other agencies

like Cooperative Extension and perhaps private farm consultants to meet the total resource conservation planning needs of farmers; who, after all, are ultimately responsible for getting plans on their land. We would emphasize, however, that SCS should retain responsibility for establishing specific guidelines to insure the conservation goals are met.

Incentives

5. AFT has always supported voluntary conservation programs that provide sufficient incentives to encourage most farmers to participate. The Liability Protection section should provide the incentive for all forward thinking farmers to get plans and to implement them. This is a very powerful section of the law in terms of the protection it affords farmers. That being the case, we would like to see more specific language regarding the meaning of "has properly applied, or who is properly implementing, a comprehensive resource management plan..." We think the farmer should be held strictly to meeting the terms and conditions of the plan as if it were a contract. Flexibility may be written into the comprehensive plan, but there should be no flexibility to go outside of the plan until it has been officially changed. The other vital incentive to encourage all farmers to obtain and implement conservation plans is linking farm support payments to fulfilling the terms of the plans. This will provide farmers with the financial resources they need to carry out the plans and establish a partnership between farmers and the public at large for conservation.

In conclusion, AFT would like to commend the sponsors of this bill for their efforts to strengthen the conservation of agricultural and natural resources. We are approaching a crucial juncture in the history of agricultural policy as it addresses resource conservation. The American people are becoming more aware of the impact of agriculture on the environment and are growing impatient with half-baked, fragmented solutions. H.R. 1440 is the kind of bold initiative that, by integrating conservation solutions, can hasten the "Green Evolution" and preserve the faith and trust of the public in agricultural producers.



**"A GREEN EVOLUTION: RETOOLING AGRICULTURAL POLICY
FOR GREATER SUSTAINABILITY"**

**REMARKS BY RALPH E. GROSSI
PRESIDENT, AMERICAN FARMLAND TRUST**

MARCH 16, 1993

**THE SOIL AND WATER CONSERVATION SOCIETY'S
"NEXT GENERATION" CONFERENCE
KANSAS CITY, MISSOURI**

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A Green Evolution:
Retooling Agricultural Policy for Greater Sustainability

As we look forward toward the dawn of the next century, it is worth looking back at the changes in agriculture that have occurred during this century.

American agriculture has witnessed what has been called a "Green Revolution." Crop yields have increased dramatically as capital, technology and energy have been substituted for labor and land as farm inputs. Fewer farmers feed more people more cheaply than ever before. An American cornucopia has been created that is the envy of the planet.

But this increased productivity has come at a cost. A cost that the public and even many of my fellow farmers are now questioning.

One of the costs is direct. Federal farm support programs this year will cost taxpayers over \$40 million a day. Few Americans understand what they get for this expense of direct payments and many more millions in hidden subsidies. Most of it is paid to a handful of producers, while the institution of the family farm is threatened. Meanwhile, there is evidence that the expenditure actually worsens the environmental impact of agriculture.

Which leads me to the second, less visible, cost -- environmental degradation. The natural resources that support food production and environmental quality have been allowed to deteriorate. Topsoil erodes, prime farmland is paved, wetlands are filled, streams and lakes are polluted. Agriculture isn't the only contributor to these problems, but it is a large and increasingly visible target.

Finally, producers themselves are questioning whether it is all worth the trouble. With higher input costs -- fertilizer, chemicals, energy and let's not forget regulatory compliance -- the farmer's bottom line is often getting worse, not better. He or she receives a smaller share of the consumer's food dollar than at any time in history; and the stress of farming has never been greater.

All these trends call into question the long-term sustainability of our current agricultural system; about the ability of farmers, agribusiness and government to continue pursuing -- and defending -- the status quo in the face of growing public concern about its mounting social, environmental and budgetary costs.

To address this concern, it is no longer enough for agriculture to say to the rest of society, "Don't complain with your mouth full." For, like it or not, society now demands more of agriculture than just putting food on the table.

Instead, agriculture must engage society in a broad effort to help it change the status quo. To promote a farming system that is in harmony with the environment. A farming system that supports producers as good stewards of the land. A system that is affordable to the Treasury. And a system that results in genuine economic efficiency and competitiveness in the production of food and fiber for an open and changing global marketplace. In short, a farming system that is more sustainable than what exists today.

The emergence of such an agriculture will require changes no less dramatic than those of the Green Revolution. A deliberate and gradual shift in priorities -- what might be called a "Green Evolution" of U.S. Agriculture -- toward principles of resource stewardship and marketplace economics which we must recognize are not mutually exclusive goals!

There are three major themes that we believe can animate this Green Evolution. Three principles on which producers and consumers -- the rest of society -- can find common ground for policy reform. First, is the principle of shared responsibility. Second, is the

idea of a new generation of conservation incentives. Third, but not least, increased attention to the special challenges of farming in the shadow of suburbia. Let me elaborate on each of these themes.

The first theme of the Green Evolution is shared responsibility.

The starting point in the search for common ground is a recognition that agriculture is a partnership between producers and consumers. Without consumers there would be no need to cultivate the land. Without producers there would be nobody to do it. We are not going to solve the problems of agriculture without the cooperation of both partners.

Cooperation requires that consumers and producers deal with each other in good faith. Production agriculture should no longer try to belittle the impact of farming on the environment nor exaggerate the effect of regulations on farmers. Consumers should not expect producers to sacrifice their property rights or shoulder the entire cost of protecting the environment.

It is the uncertainty over responsibility that is at the heart of the conflict between farmers and environmentalists. With good science and education we can probably come to some agreement on the values, so important to the public, associated with our farms. You know them well; open space, wetlands, water quality, wildlife

habitat, and more.

But many of these values - that mean so much to our city neighbors - do not improve profitability. No, the benefits accrue to the rest of society and to future generations. On our farm we have deer, ducks, mountain lions and some breathtaking views. Our farm also protects a municipal watershed. But my banker won't let me add these values to my balance sheet. Yet they exist! I believe in protecting those values but not all landowners can afford to do it alone. We must continue to find new ways to share in the cost of stewardship of our natural resources.

The second theme of the Green Evolution is a new generation of direct conservation incentives. These "green" incentives would reward agricultural producers for scrupulously protecting environmental resources such as highly-erodible soils, wetlands, critical wildlife habitat, sensitive watersheds and strategic farmlands that we cannot afford to lose to development. These incentives would be independent of commodity production and, thus, give farmers the liberty to produce for the marketplace rather than the government. For the most part, they would be a further evolution of programs that are familiar to us all, like Agriculture Conservation Program (ACP), Conservation Reserve Program (CRP), Wetlands Reserve Program (WRP) and Purchase of Development Rights (PDR). But creative thinking is demanded here to develop more of the tools necessary for sharing the financial responsibility of protecting our natural resources for future generations. The new generation of programs would create legally-binding, long-term stewardship responsibilities, institutionalizing the conservation ethic, and would rely largely, but not entirely, on the funding itself and peer pressure at the community level for their enforcement. These incentives could gradually replace traditional commodity programs as a source of farm income support, guaranteeing U.S. food security by protecting both the production infrastructure and the resource base that is America's greatest competitive advantage.

If we phased out market-distorting commodity programs -- I emphasize that this would have to be done carefully and gradually -- we could easily afford a significant green incentives system. Such a system would ultimately be more cost effective than a police force to accomplish the same ends. The amount taxpayers will spend directly this year on federal farm programs, about 17 billion dollars, would, for example, enable us to make annual conservation payments of fifty dollars on every acre of U.S. cropland now in cultivation. Needless to say, the amount paid per acre would vary with the capability of the land and the measures needed to assure its stewardship. But this simple example gives you an idea of the scale of what is possible, even if some of the savings from commodity program reform is devoted to reducing the federal deficit.

If this all sounds Pollyanna-ish, consider the alternatives. One alternative would be to try to maintain the status quo. In which case we will probably see government farm program support continue to decline in the face of budgetary realities and diminishing public support for agriculture. Like it or not, agriculture's image is changing -- and not improving. Farmers are, with increasing frequency being cast as the polluters of the environment. But denials and defensiveness aren't getting us anywhere because the charges against agriculture are not without

some justification. Wouldn't it sound refreshing to hear the farm community say, "Yes, there are a small minority of farmers who do a poor job of protecting the environment; and here is our plan to correct it."

The fact is that the status quo almost certainly cannot be sustained. The last election was about change and agriculture will not be an exception. But if the change is simply to reduce or eliminate commodity programs, it may or may not help agriculture solve the nation's environmental problems. Will producers be less likely to cultivate highly-erodible soils and drain wetlands? Or will they drive the land even harder in a desperate attempt to make up lost income?

If the status quo is not a likely alternative, the prospect of more regulation of agriculture definitely is. The more people realize that agriculture is a business, not a Jeffersonian image, the more agriculture can expect to be treated like any other business. Although most producers would find it hard to believe, agriculture is probably one of the least regulated major industries in America. And the case against regulation of farming practices is getting harder to make. If commodity programs are cut to the point where there is nothing to link environmental compliance to, you can be assured that the case will be lost and more regulation will become a fact of life for farmers -- at least for those who survive the double whammy of reduced income and more government control.

Compared to the alternatives, strong conservation incentives begin to look pretty good.

Let's move on to the third and final theme of the Green Evolution: increased attention to the special challenges faced by the significant segment of our agriculture industry that exists within commuting distance of cities -- the farms that come into closest contact with the majority of voters and taxpayers.

It may come as a surprise to you to learn that 58 percent of the total U.S. agricultural production comes from urban-fringe counties; those classified by the Census Bureau as metropolitan and those counties right next door. The concentration of agriculture around cities is even more pronounced in some of the nation's most strategic farming areas. In my home state of California, for example, 93 percent of all farm production, measured by gross sales, comes from these urban fringe counties. That so much of the nation's production is in this high conflict area should be of concern to us all.

Though a significant amount of urban-fringe farm production is fruit, vegetables and other specialty crops, an even greater proportion of it is not. Fifty percent of the amount the Commodity Credit Corporation loaned to producers of major commodities in 1987 went to producers in these counties in or adjacent to metropolitan areas. This has important implications

for commodity program reform and for the approach we take to improving the environmental impact of farming; because the thing that really distinguishes urban-fringe agriculture is pressure from suburban development. If we cut the legs out from under those who farm on the fringe, by reducing support payments too rapidly, they will not simply be absorbed by larger producers as they would in rural areas. They will sell their land for subdivisions and shopping malls. The resource base -- particularly that strategic, unique specialty land -- will forever be lost. And the farmers who remain will be at the mercy of even more suburban neighbors, the ones who can outvote them and who pay the lion's share of the taxes.

Twelve years ago, the National Agricultural Lands Study, done by USDA and the Council on Environmental Quality, called attention to farmland conversion, claiming that 3 million acres a year were being covered with concrete. More recent USDA estimates have revised that figure downward to about 2 million per year, which, as some agricultural economists point out, isn't a lot compared with the more than 300 million acres of cropland in this country.

But wholesale numbers don't tell the complete story. For example, they don't tell that much of the land being permanently lost from agriculture is prime and unique farmland, disproportionately located near cities because our ancestors settled on the best farmland and because productive climates are

attractive places to live. The numbers also don't tell that for every acre developed, several more are "crippled" for agricultural production as a result of conflicts with neighboring subdivisions: crop damage and livestock predation, restrictions on pesticide use, increased risk of lawsuits, higher production costs and lower returns. The "right to farm" movement in this country is largely a response to the land use conflicts facing urban-fringe agriculture.

While America is not likely to run out of farmland because of urbanization anytime soon, a very significant and critical part of our agricultural system faces an uncertain future -- its sustainability in question -- because we have not paid enough attention to the distinct problems of farming on the urban fringe. Ironically, it is this part of American agriculture that is the most likely "ambassador" for the entire industry. The part that is most visible to, and whose farming practices and, indeed, very existence, have the greatest impact on, the majority of the American public.

It is here, on the urban fringe where we must begin the greening of agriculture. Where the farming community can most easily enlist the support of the general public precisely because they are neighbors. Where the concept of shared responsibility can be most readily demonstrated. Where new conservation incentives will be most critical to the ability of agriculture to meet society's environmental expectations while remaining economically

competitive. Where the benefits of a sustainable agriculture will affect the most Americans.

My own farm is one of those urban fringe farms. Located twenty five miles north of the Golden Gate Bridge -- yes, there are farms in Marin County -- we have had to learn to live in the shadow of suburbia. But in Marin we have been able to turn potential conflict into productive cooperation. The environmental groups of Marin have become powerful allies of the farm community. Among the values they hold dearly is the open space provided by the farms and ranches. And they have come to understand that viable, economically sound agriculture is the most efficient way to protect our county. To that end they have stood shoulder to shoulder with farmers and ranchers for the past twenty years, virtually assuring a 5-0 vote at the county board.

At the American Farmland Trust, we believe that the themes of sharing responsibility of stewardship between farmers and the public, a balanced approach to land stewardship with an emphasis on incentives, and protecting the most productive farmland from suburbanization will strike a responsive cord with the public. A response that will build new coalitions and a cooperative atmosphere for the next generation of farm policy. Thank you.

(Attachment follows:)

USDA Wetlands Assistance for Landowners

Agricultural Conservation Program (ACP)

ACP, administered by the Agricultural Stabilization and Conservation Service (ASCS), provides cost-sharing assistance to farmers and ranchers for carrying out approved, enduring conservation and environmental enhancement practices on agricultural land. SCS provides technical assistance to ACP participants for planning, design, layout, supervision and maintenance of practices, and certifies that the practices meet SCS standards and specifications. ACP is available in all 50 states, Puerto Rico, the Virgin Islands, Guam and the Commonwealth of the Northern Mariana Islands.

Conservation Reserve Program (CRP)

CRP offers long-term rental payments and cost-share assistance to establish permanent vegetative cover on cropland that is highly erodible or contributing to a serious water quality problem. By converting these areas to permanent grass and tree cover, soil erosion is reduced and both water quality and wildlife habitat are improved. CRP land eligibility has been expanded to increase water quality benefits. Eligible land now includes areas with identified water quality impairment, designated priority areas and public wellhead areas identified by EPA. Areas designated by states as sources of water quality problems may also be eligible for CRP. A variety of practices are encouraged on CRP acres including planting introduced or native grasses, establishing forest tree stands or windbreaks, creating wildlife habitat or developing shallow water areas for wildlife. SCS provides technical assistance to make land eligibility determinations, develop conservation plans on accepted acres, and assist with implementation and vegetation establishment and maintenance.

To enroll land in CRP, producers submit an application to ASCS; if the bid is accepted, the producer signs a 10- to 15-year contract with USDA. Congress set an enrollment target of 40 million acres to be achieved by the end of 1995, of which approximately 36.5 million acres are currently enrolled. USDA has established a work group to recommend alternatives for the future of CRP when contracts expire.

Conservation Technical Assistance (CTA)

SCS offers technical assistance to landowners for the restoration, enhancement and creation of wetlands. SCS conservationists:

- make wetland determinations upon request.
- make recommendations to landowners who wish to mitigate wetlands; SCS helps them develop restoration plans.
- make scope and effect determinations for landowners who wish to maintain existing drainage systems.
- make recommendations to landowners who wish to enhance or create wetlands.

Landowners seek technical assistance to:

- regain eligibility for farm program benefits in future years.
- replace existing wetlands with a restoration on a prior converted wetland.
- develop restoration plans to meet requirements of the good faith exemption agreement in the Farm Bill.

Great Plains Conservation Program (GPCP)

GPCP helps farmers and ranchers in 10 Great Plains states implement their conservation plans through a program of scheduled technical assistance and long-term contractual cost sharing to bring improved economic and social stability to the Great Plains area. Conservation plans address:

- accelerating the conversion to less intensive use of cropland not suited for continuous cropping.
- preventing deterioration of crop and grazing land.
- enhancing fish, wildlife and recreation resources.
- promoting economic use of land.
- controlling or abating agricultural related pollution.

More than 5,000 ranchers and farmers are assisted annually through active contracts on approximately 18 million acres of land. Contracts have been written covering over 150 million acres in the 10 states. Even with this degree of participation, serious drought and erosion problems still exist and there remain about 180 million acres needing conservation treatment within the GPCP authorized area. GPCP is coordinated with other federal, state and local agencies through established state and county GPCP committees.

Small Watershed Program - Public Law 83-566

Under this program, cost-share assistance is available to watershed project sponsors to enable them to acquire perpetual wetland or flood plain conservation easements to perpetuate, restore and enhance the natural capability of wetlands and flood plains to retain excessive floodwaters, improve water quality and quantity, and provide habitat for fish and wildlife.

In addition, measures installed to provide recreational opportunities or improve the habitat or the environment for breeding, growth and development of fish and wildlife can be included in watershed plans that are developed for the purposes of flood prevention, agricultural water management or watershed protection. Nonstructural measures include the acquisition of wetlands for the purposes of benefiting the fish and wildlife resources. Structural measures include storage capacity in reservoirs, water level control structures, fish ladders, and fish shelters; and marsh and pit development to provide fish pools in marshes and breeding and nesting areas for migratory waterfowl and aquatic mammals.

SCS will provide 50 percent cost share for required wetland mitigation acres that are under a watershed project plan. SCS will also provide cost-share assistance to watershed project sponsors to create wetlands for fish and wildlife purposes.

Currently, 95 small watershed projects that are completed or under construction have fish and wildlife as a project purpose.

Water Bank Program (WBP)

Through WBP, SCS provides technical assistance to protect, improve or restore eligible wetlands. Assistance involves identifying eligible wetlands, helping wetland owners develop the conservation plan required for participation and helping participants apply contracted conservation treatment. Landowners in over 200 counties in 15 states have participated in this program.

Water Quality Incentive Program (WQIP)

WQIP is a voluntary incentive program that enables SCS to expand technical assistance for source reduction of agricultural pollutants. Technical assistance concentrates on conservation practices that address wetland preservation, wildlife habitat improvement and resource management. USDA enters into 3- to 5-year agreements with farm owners and operators to develop and implement plans to protect water quality. Eligible lands include wellhead protection areas within 1,000 feet of public wells, areas of shallow Karst topography where sinkholes convey runoff water directly into ground water, critical cropland areas having priority problems resulting from agricultural nonpoint sources of pollution, areas where agricultural nonpoint source pollution is adversely affecting threatened or endangered species habitats, and other environmentally sensitive areas identified by USDA, EPA, Department of the Interior or state agencies.

Through WQIP, USDA plans to enroll 10 million acres by 1995.

Wetlands Reserve Program (WRP)

WRP is a voluntary program offering landowners a chance to receive payments for restoring and protecting wetlands on their property. Authorized by the 1990 Farm Bill, WRP provides a unique opportunity for farmers to retire marginal cropland and reap the many benefits of having wetlands on their property. WRP obtains long-term conservation easements from participating landowners and provides cost-share payments for wetland restoration.

In June 1992, a signup for interested farmers was held in nine states with a maximum enrollment of 50,000 acres set for the pilot WRP. Owners of 2,337 farms in the pilot states submitted intentions to participate for 462,078 acres. By the September 1992 deadline for submitting bids, owners for more than half of these farms, 1,314 farms, submitted bids on 249,059 acres. Final acceptance covered 49,888 acres from 265 farms. More than 60 percent of the total accepted acreage will be restored to forested wetlands. Almost half of the WRP acreage lies near publicly or privately managed wetlands which will facilitate rapid and successful restoration.

Through WRP, USDA plans to restore and protect one million acres by 1995.



Napa County Resource Conservation District

1303 JEFFERSON ST., SUITE 500B • NAPA, CA 94559 • PHONE (707) 252-4188 • FAX (707) 252-4219

13 April, 1993

Honorable Pat Roberts
US House of Representatives
1110 Longworth House Office Building
Washington, DC 20515

Dear Congressman Roberts:

Last summer I spoke with you at a public hearing in Sacramento, California, about a voluntary watershed protection program here in our Resource Conservation District. I subsequently forwarded to you some further information regarding the programs by way of Mike Neruda, of the Office of the Secretary of Agriculture. Our programs have continued to grow here, and now include the whole of the Napa River watershed in the same type of voluntary cooperative management system.

I am writing to you now to suggest some changes to HR 1440, which is presently before the Agriculture Committee. I heartily endorse the basis of the bill, but have some strong reservations about the nature of much of Section 18 of the original. It seems to virtually divest Conservation Districts of their intended purpose, and makes giant strides toward developing the USDA Soil Conservation Service into a nearly regulatory role instead of a landowner assistance role. My friends and relatives in the Midwest do not need another regulator in their midst any more than we in California do. Combining the Soil Conservation Service with USDA fiscal agencies does not seem logical. Fiscal policy and soil erosion are difficult to address simultaneously without one distorting the administration of the other. The Service should concentrate on resource protection and enhancement as its primary mission, not program protection and enhancement.

Thank you for your time and continued interest in the needs of farmers and other landowners. I welcome your comments and suggestions. I have sent a copy of these suggested changes to Congressman English as well.

Sincerely,

Dennis Bowker
Resource Conservationist
(I'm a transplanted Jayhawk, and they *still* couldn't win it all in the Final Four!)

Encl: HR 1440 with suggested edits

*Napa County Resource Conservation District
 Contact: Dennis Bowker (707) 252-4188
 Recommended changes to:*

H. R. 1440 As introduced in the House, March 24, 1993

103d CONGRESS
 1st Session

H. R. 1440

To amend the Soil Conservation and Domestic allotment Act to provide for comprehensive site-specific resource management plans on lands for the production of agricultural commodities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES
 March 24, 1993

Mr. English of Oklahoma (for himself, Mr. de la Garza, Mr. Combest, Mr. Penny, Mrs. Clayton, Mr. Minge, and Mr. Barlow) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Soil Conservation and Domestic Allotment Act to provide for comprehensive site-specific resource management plans on *agricultural land, including those lands used for the production of agricultural commodities, and for other purposes other food and fiber, and for wildlife habitat.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Site-Specific Agricultural Resource Management Act of 1993".

SECTION 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act a section or other provision is amended, repealed, or referenced, such amendment, repeal, or reference shall be considered to be made to that section or other provisions of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a et seq.).

SECTION 3. FINDINGS.

(a) Findings.--Congress finds that--

(1) agricultural land users are required to develop and implement an increasing number of plans that have conservation and environmental benefits as a primary purpose;

(2) millions of agricultural land users wish to voluntarily develop resource management plans for their lands, but lack the expertise or ability to do so;

(3) the Standard State Conservation District Law (Standard Act) of 1937 established special districts to assist land users in resource conservation planning and protection;

(4)(2) within the Department of Agriculture, there are as many as fifteen programs that provide for the development of such plans, and currently some agricultural land users may have six different conservation and environmentally-related plans in effect with regard to their land;

(5)(3) future legislation may mandate additional requirements for agricultural land users; or provide opportunities for voluntary cooperative development of resource protection and enhancement programs;

(6)(4) most plans are single purpose in nature, and requirements imposed by one plan may conflict with the purposes, objectives, or requirements of another plan;

(7)(5) the complexity of the planning process is such that it is difficult for many agricultural land users to coordinate the various requirements into their individual farming or ranching operations; and has produced a system wherein conservation plans are developed to meet government program requirements instead of the overall resource conservation needs of the land;

(8)(6) there is a need to approach conservation and environmental problems on agricultural land on a more rational basis in order to promote practical and economically feasible site-specific resource measures that take into consideration the sustainable economic vitality of agricultural land units involved; and

(9)(7) to improve plan effectiveness and obtain greater benefits of resource conservation, ensure consistency, all pertinent conservation and environmental requirements needs on agricultural land should be simultaneously addressed in a coordinated, plan through a single agency of the Government, into one integrated resource management plan for the land unit developed cooperatively through the local direction of Soil and Water Conservation Districts or their equivalent.

SECTION 4. PURPOSE.

(a) It is the purpose of this Act to--

(1) assist agricultural land users in meeting conservation and environmental requirements needs on such lands, while maintaining sustainable viable farming or ranching operations;

(2) provide that a single Federal agency, the Soil conservation Service, be responsible for working with other governmental agencies and agricultural land users in the development and implementation of integrated resource management plans for agricultural lands;

(2) provide that site-specific integrated resource management plans be developed with local direction and coordination of governmental agencies and land user interests;

(3) provide a more efficient and effective method to coordinate Federal, State, and local conservation and environmental goals and objectives requirements with respect to individual land units user needs;

(4) help ensure that a site-specific approach encompassing all resources will be used in an interrelated manner when developing and implementing plans on agricultural land for conservation and environmental purposes; and

(5) help ensure that a balance is maintained among *sustainable* productivity, efficient management of *natural* resources, and environmental quality with respect to the agricultural lands unit.

SECTION 5. ESTABLISHMENT OF PROGRAM

The Act is amended by adding at the end the following new section:

SECTION 18. COMPREHENSIVE RESOURCE MANAGEMENT PLANNING.

(a) *Definitions.--As used in this section--*

(1) *Agricultural land.--The term "agricultural land" means crop land, pastureland, native pasture, rangeland, orchards, vineyards, forest land, wildlife habitat and other lands including land used to produce or support the production of an annual or perennial crop of a commodity, aquaculture product, nursery or forest product, or livestock. The term "agricultural land" shall not include Federal lands subject to the Forest and Rangeland Renewable Resources Planning Act of 1974 or the National Forest Management Act of 1976.*

(2) *Agricultural land user.--The term "agricultural land user" means any landowner, leaseholder, tenant, sharecropper, or other person desiring to, or required to address conservation and environmental needs on agricultural land.*

(3) *State.--Notwithstanding section 17(a), the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.*

(4) *Soil and Water Conservation Districts.--"Soil and Water Conservation Districts" means any special district established by the Standard State Conservation District Law (Standard Act) of 1937, for the delivery of soil, water and other resource assistance, and includes Resource Conservation Districts; Soil Conservation Districts; Conservation Districts; and other such titles as the individual States have designated.*

(b) *Establishment.--Within one hundred and eighty days of enactment of this Act, the Secretary of Agriculture shall establish programs to enable the development site-specific integrated resource management plans for agricultural lands with the advice and*

consultation of Soil and Water Conservation Districts or their equivalent, where such Districts presently exist. Programs for areas not covered by Soil and Water Conservation Districts or their equivalent will be developed in accordance with (c) Program Requirements, below.

(c) Program Requirements.--Notwithstanding any other provision of other law--

(1) the programs developed under this section shall enable all plans required by the agencies of the Department of Agriculture pursuant to any provision of law or regulation with respect to soil, water, and other resource conservation and environmental concerns on agricultural land to be integrated into a single comprehensive site-specific plan for the land involved;

(2) the programs developed shall provide the opportunity for agricultural land users not subject to regulations or requirements as in (1), above, desiring to voluntarily protect the natural resources of their agricultural lands to apply for assistance through the Soil and Water Conservation Districts for development of site specific integrated resource management plans;

(3) the program will include establishment of Certifying Committees in the Soil and Water Conservation Districts that will include a minimum of three (3) landowners of the District and three (3) technical personnel from the Department of Agriculture and one or more other Federal agencies involved with resource management. Such Committees may include Directors of the Soil and Water Conservation District;

(4) the programs developed will clearly outline the goals and objectives of the Department of Agriculture relative to natural resource management and the desired conservation results of Department policy, in order to provide guidance to plan preparers;

(5) the Secretary of Agriculture will encourage the head of each agency or entity of the Government dealing with natural resource management to enter into agreements enabling the Soil and Water Conservation Districts to coordinate the needs and requirements of all such agencies into a single site-specific resource management plan for agricultural lands;

(6) the Secretary of Agriculture may enter into agreements with any State, including any agency or subdivision thereof under which any conservation and environmental needs or objectives of the State may be included in a single site-specific plan developed cooperatively through a Soil and Water Conservation District.

(7) the single site-specific integrated resource management plan developed through the coordination of a Soil and Water Conservation District will be assessed by the Committee established in (3) above for adequacy in protecting resources, appropriateness, feasibility and reasonableness of cost. Upon finding that a plan is adequate, appropriate, feasible and of reasonable cost, and that all objectives, goals and needs of the cooperating agencies are met, the Committee shall certify that the plan is eligible for funding assistance.

(8) agricultural lands not in a Soil and Water Conservation District may be included in this program by the appointment by the Secretary of Agriculture of a Certifying Committee

meeting the criteria established in (3) above;

(d) *Criteria for Integrated Site-Specific Resource Management Plans.*—The Secretary of Agriculture shall establish, in consultation with the heads of other Departments and Agencies of the Government, a statement of purposes, objectives and goals to provide guidance for the development of resource management plans for agricultural lands. Technical materials and instruction may be developed and made available to agricultural land users to assist with plan preparation in the furtherance of Government purposes, objectives and goals relating to natural resource conservation, and in the furtherance of the interests of agricultural land users. To the extent possible, the materials and instruction should be coordinated with the materials developed by other resource management related Departments and Agencies of the Government.

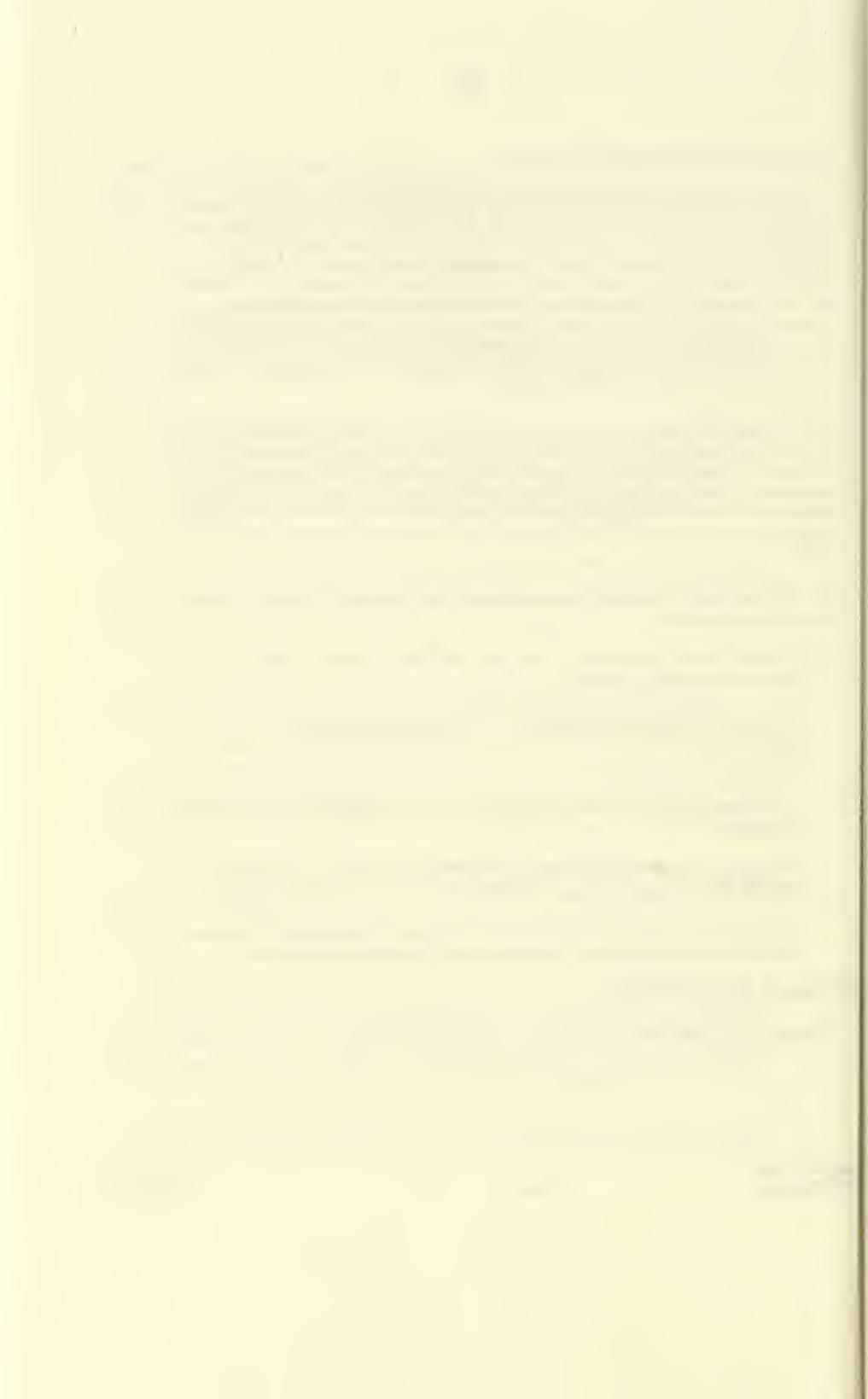
(e) *Watershed Planning.*—Programs developed and plans constructed under this article will give priority to, and encourage the development of, plans that may be integrated into existing or future watershed wide plans. Programs shall be developed that encourage voluntary cooperative resource management planning by agricultural land users on a watershed wide basis that will address the purposes, objectives and goals of resource management related Departments and Agencies of the Government, and the interests of the agricultural land users.

(f) *Requirements for Individual Plans.*—Each individual integrated site-specific resource management plan shall:

- (1) be specifically designed for the land unit described in the plan, in context of the watershed in which it is located;
- (2) provide, to the extent possible, various management system alternatives which the agricultural land user may use to meet the conservation and environmental needs of the land;
- (3) encompass all natural resources on the land, or that are affected by the management of the land;
- (4) take into consideration the interests and needs of the land user, as well as the purposes, objectives and goals of Local, State, and Federal Government policies;
- (5) provide to the greatest extent possible for sustainable long term natural resource conservation and management, including sustained agricultural production.

SECTION 6. EFFECTIVE DATE.

This Act and the amendments made by this Act shall be effective on the date of enactment.



SITE-SPECIFIC AGRICULTURAL RESOURCE MANAGEMENT ACT OF 1993

TUESDAY, APRIL 20, 1993

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENVIRONMENT, CREDIT,
AND RURAL DEVELOPMENT,
COMMITTEE ON AGRICULTURE,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:10 a.m., in room 1302, Longworth House Office Building, Hon. Glenn English (chairman of the subcommittee) presiding.

Present: Representatives Johnson, Long, Clayton, Barlow, Pomeroy, Holden, Penny, Peterson, Baesler, Combest, Allard, Barrett, Nussle, and Ewing.

Staff present: Vernie Hubert, chief counsel and legislative director; Joseph Muldoon, associate counsel; John E. Hogan, minority counsel; Glenda L. Temple, clerk; Benjamin I. Baker, James E. McDonald, James R. Lyons, Joe Dugan, Perri D'Armond, and David Ebersole.

OPENING STATEMENT OF HON. GLENN ENGLISH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OKLAHOMA

Mr. ENGLISH. This hearing will come to order.

Today we will continue consideration of our legislation, H.R. 1440, which is the Site-Specific Agriculture Resource Management Act of 1993. The purpose of this legislation is to allow us to consolidate into a single plan all of the environmental requirements that we have within the Department of Agriculture and also provide the opportunity for other agencies, both Federal, State, and local, to have access and to utilize a single plan.

This plan is one that will simplify for the farmer and give him one place in which he can go to determine exactly what is required of him from an environmental standpoint and have it incorporated into a single plan. Also, we would expect that this would encourage and facilitate the cooperation of the various agencies at various Government levels in recognizing the need to hopefully come about with rules and regulations that fit into a single plan in making sure that the law is consistent. We are not even sure at this particular point how many farmers have problems with the various requirements that may be placed on them or how inconsistent those requirements may be, but certainly we would expect as we look to the future that there will be more, not less, requirements on the farmer from an environmental and conservation standpoint.

We think that this makes good sense and those that we have talked to, both in the environmental community as well as the commodity community, feel that this is a direction to go. So we are looking forward to continuing our hearing and receiving testimony from various interested groups and we are delighted today to have the Department that will be testifying as well.

Mr. COMBEST, do you have any comments you would like to make?

**OPENING STATEMENT OF HON. LARRY COMBEST, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS**

Mr. COMBEST. Thank you, Mr. Chairman, a short statement.

Mr. Chairman, H.R. 1440 has been the topic of conversation in my district these past few weeks. There has been a great deal of confusion about what the bill actually does, and I hope we can get this sorted out this morning.

As a cosponsor, I am comfortable with the legislation and feel confident of its intent. However, I look forward to this morning's hearing so we can learn exactly what the Department of Agriculture believes the bill does. More importantly, we need to learn how the Department would administer this legislation should the bill become law. If there are differences of opinion on the legislative language, I certainly believe we must adjust that language to clarify its intent beyond any doubt.

These are important days for the Department and for American agriculture. The President's budget changes USDA's organization and will especially affect the field office structure within the Department. The budget and Secretary Espy's reorganization plan yet to come need to be looked at closely and thought about carefully.

At the same time, farmers' and ranchers' operations may be affected by reauthorization of the Clean Water Act, and regulations under that act could affect American agriculture in ways that this committee has never contemplated. Agricultural producers in coastal States already understand, or will shortly, how their operations will be affected by the 1990 amendments to the Coastal Zone Management Act. EPA guidance to agriculture under these amendments will seek to control sediment and erosion, animal confinement facilities, nutrient and pesticide management, livestock grazing, and irrigation. You may be sure these management measures could be extended to the rest of the country when the Clean Water Act is reauthorized. I understand legislation will be introduced this week to do just that.

Mr. Chairman, American agriculture went through profound changes during the 1980's and many farmers and ranchers did not survive those trying economic times. In the 1990's, we may witness another shock to agriculture; this time from Federal Government regulation.

Thank you, Mr. Chairman.

Mr. ENGLISH. Thank you very much.

Mr. Holden.

Mr. HOLDEN. No statement.

Mr. ENGLISH. Mr. Peterson, do you have any comments you would care to make?

Mr. PETERSON. Nothing.

Mr. ENGLISH. Our first witness today is Mr. Galen Bridge, who is the Acting Chief of the Soil Conservation Service of the Department of Agriculture. Mr. Bridge, we want to welcome you here today.

STATEMENT OF GALEN BRIDGE, ACTING CHIEF, SOIL CONSERVATION SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. BRIDGE. Thank you, Mr. Chairman, members of the subcommittee. I am pleased to have the opportunity to testify here today. We share your desires to improve environmental planning within the Department of Agriculture and look forward to working with you and the subcommittee on this issue.

The Department fully supports the concept of integrated resource management planning. However, in order to provide the Secretary with the needed flexibility during the reorganization of the Department, we recommend that the authorities contained in H.R. 1440 be delegated to the Secretary rather than to any particular agency within the Department. The Secretary has indicated his desire to move swiftly on reorganization. Furthermore, the fiscal year 1994 budget proposes a Farm Service Agency that consolidates the Agricultural Stabilization and Conservation Service, Soil Conservation Service, and Farmers Home Administration into a single organization. We anticipate that these actions will enable USDA to more effectively coordinate the conservation and environmental requirements of the statutory authorities that we need to implement.

Because of the pending reorganization at this time, it is impossible for us to testify as to the direction the Department will go and we are not prepared to discuss the merits of H.R. 1440.

Most conservation plans are single purpose in nature; that is, a single conservation plan is created to comply with one program's requirements. For some time now, the USDA has been concerned about the increasing number of these plans. A single, integrated conservation plan should be developed that considers the conservation and environmental obligations necessary for agricultural land users to receive USDA benefits, to comply with environmental regulations, and to undertake the voluntary activities that they do so well.

Our goal is to improve and streamline the Department's environmental planning process for agricultural land users. We believe that an integrated approach should guide USDA's environmental planning efforts. Such an approach would identify the environmental problems on a watershed or a regional basis and then incorporate the solutions on a site-specific basis. We also believe that any plan should be farmer friendly, be flexible, and environmentally responsive, and we recognize that a key component in achieving success is the involvement and participation of the land-owners in developing the plan.

The USDA strongly supports interagency cooperation. No one agency has all the resources to do the planning that the bill envisions. We believe that by combining the skills that exist within the USDA and those of other Federal, State, and local entities, the necessary expertise would be available to develop the site-specific plans.

As I mentioned earlier, we ask for time to submit our reorganization proposals. We look forward to working with you and the sub-committee on this issue.

I would be pleased to respond to any questions you may have.

[The prepared statement of Mr. Bridge appears at the conclusion of the hearing.]

Mr. ENGLISH. Thank you very much, Mr. Bridge.

I am a little bit troubled by the statement that you have given us. As I understand it, you all are in favor of the goals of this legislation, but you don't want to take a position on it. Is this one of those statements that is cleared by OMB?

Mr. BRIDGE. This statement has been cleared by OMB.

Mr. ENGLISH. Did it get cleared anywhere else outside of the Department of Agriculture?

Mr. BRIDGE. Not that I am aware of; no.

Mr. ENGLISH. So it didn't go anyplace other than OMB?

Mr. BRIDGE. Just to the Department Secretary's office and OMB.

Mr. ENGLISH. I see. Can you explain to me how this proposal could possibly have any impact as far as reorganization is concerned?

Mr. BRIDGE. I think, as I said in the statement, if you delegate the authorities to the Secretary—

Mr. ENGLISH. But I'm not talking about delegating. If we delegate to the Secretary, then we might as well just have about a two sentence bill that says "The Secretary has the authority to reorganize and to set up site-specific proposals on agriculture" and that would be it. That is what you are suggesting we have is about a two-line bill?

Mr. BRIDGE. I am not making that suggestion.

Mr. ENGLISH. Is the Secretary making that suggestion?

Mr. BRIDGE. I cannot speak for the Secretary.

Mr. ENGLISH. Do you think the Secretary expects that is what we're going to do?

Mr. BRIDGE. No, I do not expect that is what he expects from you.

Mr. ENGLISH. Then why in the world would he put it in a statement?

Mr. BRIDGE. Mr. Chairman, I think that we're caught in a transition period in which a number of the obviously key policy people are not in position in the Department. Given the proposals on reorganization, that this is the strongest statement that the Secretary wishes to make at this time.

Mr. ENGLISH. Let me just hit a point or two about this, Mr. Bridge. We can't sit on hold waiting on the administration or the Department to get all their people in place. I sympathize with the situation; I am sorry that is the case. But if we're going to do that, then we might as well kiss this year off and we all could gather again next year and try to see what we can do. That gives us 1 year within this Congress to maybe take some action. I don't think the Members of Congress are willing to just adjourn until we get everybody in place. So we have to kind of carry out our responsibilities and move ahead.

I certainly want to give the Secretary every bit of leeway we possibly can as far as reorganization. I think that's fine and I think

USDA needs to be reorganized and I am looking forward to the Secretary's proposal in this regard. But I do not understand how this specific proposal has anything to do with reorganization or in any way gets involved in reorganization. What we are doing, in fact, is pulling together the authorities of the various agencies within the Department of Agriculture and have a site-specific plan administered through the Soil Conservation Service.

Unless the Secretary is contemplating breaking up the Soil Conservation Service—and maybe he is going to wipe out the Soil Conservation Service, I don't know—then short of that, I can't see how this has any impact on reorganization. To the contrary, it seems to me to be moving in the opposite direction. Now, that's one side of it.

But if the Secretary seriously believes that this committee and the Congress is going to simply grant the authority for the Secretary to do whatever he wants to do as far as dealing with the various environmental programs of the Federal, State, and local governments and just say "Mr. Secretary, here is a blank check; go do whatever it is you want to do," I think he is going to be mistaken.

So I assume what you are telling me is the Department of Agriculture is opting out on this legislation and does not wish to participate in the writing of this bill.

Mr. BRIDGE. I would not suggest that is the case. I think the Department is willing to work with the committee as you move on with the bill. It is something less than full endorsement at this time.

Mr. ENGLISH. The problem I see in the recommendation you have made to us is, one, grant the Secretary blank check authority, which you've already indicated to me you doubt we're going to do and I think you are absolutely right; or two, don't do anything. Am I missing something in that statement? Is there something else that we're not being told?

Mr. BRIDGE. I think you have the situation pretty well described.

Mr. ENGLISH. Then it sounds to me like the Department of Agriculture has just opted out in the writing of this bill.

Mr. BRIDGE. Let me make a couple of comments.

Mr. ENGLISH. Unless we're willing to simply, as I said, wait until reorganization is out of the way. I see no reason to think that reorganization is going to be completed before the end of this year. I have already heard a great deal of controversy and we haven't even had a proposal yet. And I don't know that our farmers can afford the luxury of waiting around for another year before we start looking at trying to provide some kind of plan or proposal that makes sense to give them some relief.

So the question I am asking you right now is, is the Department going to participate in writing this bill or is the Department going to sit on the sidelines and we will present it with a bill?

Mr. BRIDGE. Mr. Chairman, I really cannot answer that question. I do not know.

Mr. ENGLISH. I will have to assume until we hear differently that the Department is out of it.

Mr. Combest.

Mr. COMBEST. Thank you, Mr. Chairman.

Mr. Bridge, do you have a copy of the bill with you?

Mr. BRIDGE. I do not.

Mr. COMBEST. Staff will provide you with a copy. On page 7 of the bill, there is just one paragraph there I would like for you to look at. On page 7, lines 7 through 16. Could you briefly take a look at that and see what it says.

Mr. BRIDGE. Yes, sir.

Mr. COMBEST. Let me ask you a question relative to that, giving you an example, Mr. Bridge. When producers prepare to comply under the 1985 farm bill on highly erodible land, you would go to your Soil Conservation Office and you would present them with a plan, then it would be approved, and then ASCS would make certain determinations on that plan. After that, the Soil Conservation Service would make the determination of whether or not a farmer was actively applying the plan on their farm. If the producer was out of compliance with that plan as determined by the Soil Conservation Service, then that would be reported to ASCS.

Would you, after reading that section of the bill on page 7, would you presume that procedure from the way that it operated under the 1985 farm bill would change?

Mr. BRIDGE. I do not think that this particular section changes in any way the relationship currently that exists between ASCS and the Soil Conservation Service as it relates to highly erodible land compliance requirements.

The plans would become more comprehensive in nature as people used these holistic plans as they relate to other cost-share activities, but ASCS would still be the paying agent and so on.

Mr. COMBEST. Obviously, that is the understanding that there is going to be a significant increase in the number of—I guess I could call them environmental regulations that a farmer has to meet. Obviously, the intent is to again sort of try to consolidate these into a program which is as easy as possible for the farmer to comply with. Obviously, there would be additional regulations by maybe even other agencies that would eventually come under this.

The same paragraph. Under the new water quality incentive program, currently producers would sign up at the ASCS office and SCS would develop and approve plans and review and prioritize applications with an interagency team ranking applications for final procedure. In that, would you see any changes that this paragraph would provide for from the way it currently is being done?

Mr. BRIDGE. I do not see any change.

Mr. COMBEST. I share some of the same concerns that the chairman has expressed in his questions, Mr. Bridge, because we are attempting to get in front of this curve, if you will. As you probably know, if you haven't heard directly, you can anticipate, having spent some time around USDA and around farmers, the reorganizational concept that has been outlined in the budget is going to be met with a great deal of controversy and comment by farmers. Just the idea that all of a sudden you no longer have a Soil Conservation Service, ASCS, FmHA as an agency sends a signal, at least it is interpreted, that that is something which is going to lead to the demise of farm programs.

We would like to have as much cooperation as possible with USDA in trying to determine how we think we can, by doing some-

thing such as H.R. 1440, assist the farmers. We want to make this as farmer friendly as possible. We don't have agency biases in this at all. But if we don't have the input from USDA, which is the agency that is hopefully, at least according to what we would like to see, going to administer environmental programs on land, then you are totally out of the loop. If we wait, given the controversy that I think is going to come, and every Member of Congress is going to hear from their farmers about a reorganization plan that basically does away with agencies as we know them today, if we wait for that, we may not be able to be in front of the curve as we would like to be.

So I would echo the chairman's comments in that I don't think we can wait. I think basically we have two options—either we move forward totally on our own, which doesn't always work out to be the best benefit of those agencies administering; or, we get USDA to be a player in this and help us to write a bill that is farmer friendly. But if we wait, and I think it is going to be months down the road for the reorganizational plan to come out, I am afraid we are going to be well behind the 8 ball on this particular problem.

I'm sorry I ran over my time, Mr. Chairman.

Mr. ENGLISH. Thank you.

Mr. Holden.

Mr. HOLDEN. Mr. Bridge, in Pennsylvania there has been a sincere attempt by the USDA to have the ASCS, SCS, and FmHA offices located in one location for the convenience of the farmer. Is that the case throughout the United States?

Mr. BRIDGE. That's right. I think I'm right in saying that at least ASCS and the Soil Conservation Service are now collocated in at least 85 percent of the offices across the country.

Mr. HOLDEN. Eighty-five percent.

Mr. BRIDGE. And in the other 15 percent, there may be situations where one agency doesn't exist in the county and some of those kinds of things.

Mr. HOLDEN. Thank you, Mr. Chairman.

Mr. ENGLISH. Mr. Allard.

Mr. ALLARD. Mr. Chairman, I don't have any questions.

Mr. ENGLISH. Mr. Ewing.

Mr. EWING. There is some reluctance on the part of the Department to get into this type of legislation because of the reorganization; is that right, Mr. Bridge?

Mr. BRIDGE. Yes. I think the Secretary's position on this bill is entirely related to the reorganization issue. As I said in my statement, I think conceptually the Department would like to move toward a single holistic kind of a plan as it implements and administers its programs.

Mr. EWING. I guess my question would be, why this wouldn't be a step in that direction? By putting together forms or plans that can be used by multiagencies now, why wouldn't that maybe be just advance work on a reorganization plan? I don't think I really understand why that should hold you back.

Mr. BRIDGE. I think one could draw that conclusion. In fact, we have people in the countryside, a multiple number of agencies that are cooperating, trying to bring together in their own way a single

plan. I passed the chairman an example of one of those in Pennsylvania this morning.

Mr. EWING. Would you take that message back to USDA for us?
Mr. BRIDGE. I certainly will.

Mr. EWING. All right. I work with both agencies in my home county and it works well. I do get the feedback though, when you introduce personalities into it, that if the people working in one agency for some reason are a little jealous or there is some conflict with the other agency, they are not cooperative and the farmer is caught in the middle, the producer is caught in the middle. That shouldn't be.

I would hope that we could move ahead with implementing a procedure like this and not have any ill effects or any adverse effects in looking at reorganization proposals from the administration.

Mr. BRIDGE. I appreciate that.

Mr. EWING. Thank you.

Mr. ENGLISH. Mr. Barlow.

Mr. BARLOW. Yes, sir. I just want to thank you for holding these hearings and moving this bill along quickly, Mr. English. It is very important and I want to associate myself with your comments and the comments of my colleagues on the other side. We need to move very fast here.

In my State of Kentucky, State environmental agencies have taken a very hardline, extreme position on a lot of farm conservation problems or challenges and their position is going to cost farmers a lot of money and not really solve problems. We have people at the State level coming to grips with these challenges out in rural areas who really don't have much background in farming, especially with low cost, effective, efficient techniques for solving these problems.

So I hope the Department understands that, as we move this legislation along, we are trying to be helpful, we're trying to stay ahead of the curve, as the gentleman previous to me said, and we are trying to head off headaches that very rightfully will be visited on all of us in the Government if we don't get out and solve the problems before things turn into a complicated mess.

We have to have efficiency. We have to have low-cost solutions. We have to consolidate. We have to get discipline in our structure to give fast answers when problems are brought up. I hope you all will move that way.

Thank you, sir.

Mr. ENGLISH. Mrs. Clayton.

Mrs. CLAYTON. Thank you, Mr. Chairman. Thank you also for holding these hearings.

I was unable to hear the thrust of your comments, but I wanted to respond to your written testimony, Mr. Bridges. Am I understanding that you have not considered the merits of H.R. 1440 because of the reorganization? You have no opinion on the purpose and the substance of this, or is it the implementation of it?

Mr. BRIDGE. I think the bill obviously is caught up in the reorganization issue. I am sure that is where the Secretary is coming from. I think we do see the merits of moving toward a single plan concept that involves all the environmental issues, the conservation

issues related to those producers out there who are trying to do the things that need to be done in response to both producing food and fiber and protecting the environment.

Mrs. CLAYTON. So your written statement isn't quite the situation?

Mr. BRIDGE. Close.

Mrs. CLAYTON. Close. Let me push a little further. Where do you see the problems in the reorganization as to the implementation of it. Is it how we propose to do it or what we propose to do?

Mr. BRIDGE. In this bill?

Mrs. CLAYTON. Yes.

Mr. BRIDGE. I think the bill itself probably gives some assignments to the Soil Conservation Service that the Secretary would be reluctant at this time to make those kinds of assignments, not knowing exactly where he is going to come out on the reorganization issue.

Mrs. CLAYTON. Mr. Chairman, I think those are all the questions I have.

Mr. ENGLISH. Thank you, Mrs. Clayton.

Mr. Bridge, what is the number of plans currently in place on farmers and ranchers under the programs that would be affected by this bill?

Mr. BRIDGE. There are about 16 programs in the Department that now require some kind of a plan or an analysis at the farm level.

Mr. ENGLISH. And how many farms and ranches around the Nation have one or more of these plans in effect?

Mr. BRIDGE. Something over 1.5 million. We now have over 1.5 million in compliance plans alone related to highly erodible land.

Mr. ENGLISH. Then how many of these farms and ranches would have more than one plan in effect?

Mr. BRIDGE. I would guess out of the 1.6 million, there is some percentage, maybe 30 percent, of those that do not participate in other programs. So we have probably got close to 1 million plans that have at least two.

Mr. ENGLISH. Roughly, 1 million farms and ranches that will be affected by more than one plan that is being administered by the Department of Agriculture?

Mr. BRIDGE. Those are estimates.

Mr. ENGLISH. Of the 1.5 million, how many are not only being affected by at least one of, if not more, the USDA programs but also are being affected by other Federal programs?

Mr. BRIDGE. I really can't answer that. Although, as has been said here before, I think the potential is there to affect them all. As the Clean Water Act, coastal zone management types of things come through, State requirements are imposed, and—

Mr. ENGLISH. Yes, but those are other proposals on down the road.

Mr. BRIDGE. Right.

Mr. ENGLISH. What we are trying to do is get a fix today on exactly where we are with regard to not only USDA programs, but how we are being affected by other Federal Government programs today. How many of these farmers are having to go out and not

only deal with more than one USDA program, but also deal with programs from other departments and agencies?

Mr. BRIDGE. It would really be a guess on my part. But I would guess by the time we pick up coastal zone management, with the rules and regulations currently in place and the States beginning to implement that, some of the State requirements on water quality and nonpoint source pollution, I would guess there are at least a half million of those producing units out there that are affected in some way.

Mr. ENGLISH. There are about 500,000 that would be affected by more than one Federal program, not necessarily USDA?

Mr. BRIDGE. Right.

Mr. ENGLISH. So 1 million roughly for more than one USDA program and—

Mr. BRIDGE. Now, recognize that when you talk about a Federal program, those are often passed through a State water quality agency so they become Federal and State kind of requirements.

Mr. ENGLISH. I understand. But Federal agencies have the responsibility for them.

Mr. BRIDGE. Right.

Mr. ENGLISH. And then on top of that, we also have State and local programs, do we not?

Mr. BRIDGE. That's right.

Mr. ENGLISH. Passed by State and local governments. And how many of these 500,000 farms out there—or maybe I should go back to the 1.5 million farms out there—are being affected by a USDA program, a Federal program, a State program, or a local program; a combination thereof?

Mr. BRIDGE. I am really beginning to guess, but I suggest to you that we have taken most of them in by that point.

Mr. ENGLISH. So nearly every farm out there is being impacted by more than one program, Federal, State, or local?

Mr. BRIDGE. I would like the right to correct the record if we could do some analysis on that.

Mr. ENGLISH. Certainly. We would appreciate that.

But do I also understand from your answer then that to your knowledge the Federal Government has not made an effort to make that kind of a determination?

Mr. BRIDGE. That's right.

Mr. ENGLISH. So no one knows?

Mr. BRIDGE. No one knows.

Mr. ENGLISH. Except the farmer out there who is being affected.

Mr. BRIDGE. Exactly right. Then you have overriding things like Endangered Species Act and several of those kinds of things that bridge over the top of some of this stuff, too.

Mr. ENGLISH. So you are telling me that in the U.S. Government today our Government has no idea what kind of impact it is having on farmers as a result of these layers of various programs that are passed not only by the Federal Government, but also by the State and local governments?

Mr. BRIDGE. I think we know we're having a rather serious impact because all you have to do is drive through the countryside and stop and listen to a few producers and a few farmers out there and they will begin to tell you what is going on.

Mr. ENGLISH. It would seem to me that we would make some kind of effort to understand what in the heck is going on out there.

Mr. BRIDGE. That's right, Mr. Chairman. We have started doing a little of that in terms of some analytical work at the office. That is why I would like to go back and see if we can look at that.

Mr. ENGLISH. All right. But am I correct in understanding that analytical work you are doing really is determining just among yourselves, the Soil Conservation Service?

Mr. BRIDGE. That's right. We have no way of reaching into NOAA and EPA and getting at some of those numbers.

Mr. ENGLISH. Let me ask you, within USDA is there any analysis? Are you all the only ones trying to make this analysis, or is ASCS and everybody else a part of the effort?

Mr. BRIDGE. Not today. I think just the people in Soil Conservation Service looking at some—

Mr. ENGLISH. So we don't even have a coordinated effort within USDA to determine what impact USDA programs are having on these folks.

Mr. BRIDGE. That's right, in terms of where we're hitting more than one farmer with one program.

Mr. ENGLISH. And there is certainly no effort to try to determine what is happening within the entire Federal Government as to what impact all of these programs are having. You are not talking to other Federal agencies—EPA, Fish and Wildlife, or whoever it may be?

Mr. BRIDGE. Well, we're talking a lot to them but not in the context of how many farmers we are hitting out there with multiple requirements.

Mr. ENGLISH. Is there any kind of discussion with regard to the various rules and regulations that the various Federal agencies have and the impact that it is having on farmers?

Mr. BRIDGE. Lots of discussion in terms of the context of the rules and regulations and the requirements. If you pick up the coastal zone management material, you will find embedded in most of that is the technical guidance requirements, standards, criteria, et cetera that the Soil Conservation Service uses.

Mr. ENGLISH. Is there any discussion with regard to conflicts in rules and regulations by various Federal entities?

Mr. BRIDGE. Yes. Most of the discussion is over conflicts and standards and how tough the requirements are going to be and how far we are going to push people.

Mr. ENGLISH. And how is that resolved?

Mr. BRIDGE. Through negotiations and often it is not resolved.

Mr. ENGLISH. It is not resolved?

Mr. BRIDGE. Not entirely. I think there are obviously—

Mr. ENGLISH. So the farmer may be the one who has to bear the load. We have the Soil Conservation Service that says now you have to do this, and then you have Fish and Wildlife or EPA saying you have to do that, and neither the twain shall meet?

Mr. BRIDGE. Right. We have 50 State agencies, State water quality agencies—

Mr. ENGLISH. I haven't gotten to the States but I'm getting there. I am just trying to decide even within the Federal Government if we know—

Mr. BRIDGE. I get your point very well. You make the point exceptionally well.

Mr. ENGLISH. So within the Federal Government, we do have situations that exist in which conflicts are not resolved and the farmer is faced with obeying one or the other of conflicting rules and regulations?

Mr. BRIDGE. The potential is quite high for that; that's right.

Mr. ENGLISH. And whenever you add to that mix then the State government, that further compounds the problem. I would assume if you are not talking within the Federal Government, you certainly are not talking with the State governments trying to resolve—

Mr. BRIDGE. Well, we do. For instance, SCS has assigned to the State water quality agencies people in at least probably 40 to 45 States that we have tried to cooperate with in terms of developing their criteria, standards, approaches, and so on.

Mr. ENGLISH. I understand the standards and approaches and so on. What I am talking about are regulations in carrying out a law that a State may pass as opposed to a conflicting rule, regulation, or law on the Federal side.

Mr. BRIDGE. That's right, we don't.

Mr. ENGLISH. So there is no resolution of those conflicts. The farmer again has to choose how is he going to handle that problem.

Then the next step is with regard to local ones. Same kind of problem?

Mr. BRIDGE. Same kind of problem.

Mr. ENGLISH. And now we are going to have an entirely new round of laws that we will see passed, at least on the Federal side, and that will further compound this problem, will it not?

Mr. BRIDGE. That potential certainly exists.

Mr. ENGLISH. And the Secretary wants us to wait until he gets his reorganization done before we do anything about that?

Mr. BRIDGE. That's right, sir.

Mr. ENGLISH. I see.

Mr. Combest.

Mr. COMBEST. Mr. Bridge, are you aware of currently any conservation/environmental programs that are operated solely by ASCS that would not require that a producer go to SCS for technical assistance or plan approval?

Mr. BRIDGE. I am not aware of any. Some of the stewardship incentive programs go to the Forest Service, State. But basically they go to SCS on just about everything.

Mr. COMBEST. I believe I heard you say that on the collocation where there has been an effort to bring agencies together in the same building or whatever, did you say about 80 percent?

Mr. BRIDGE. I think it is about 85 percent collocation with ASCS.

Mr. COMBEST. Right, of the counties that have both offices.

Mr. BRIDGE. Right.

Mr. COMBEST. Now, I want to make sure that it is clear. In the reorganizational effort, you are not talking just about collocation; you are talking about combining ASCS, SCS, and FmHA into one agency?

Mr. BRIDGE. The extent of my knowledge on that subject is what I read in the budget. There is a single line item in the budget that

says there will be a Farm Service Agency involving the three entities.

Mr. COMBEST. And that is back to your statement that I am making reference to, where you say the budget proposes a Farm Service Agency that consolidates.

Mr. BRIDGE. That's right. One would assume that would be a combination of the three agencies.

Mr. COMBEST. Is there any kind of a timeframe? That kind of concerns me a little bit. If I understood what you just said, your awareness of the proposal to consolidate those agencies is coming from OMB and that USDA is not a player in that?

Mr. BRIDGE. I don't know that. I would assume there are some people working rather diligently on reorganization, but I am not aware of that personally.

Mr. COMBEST. You are not involved as the Acting Chief of SCS?

Mr. BRIDGE. No.

Mr. COMBEST. So I would suspect it would not be possible to put some kind of a timeframe on it. Thank you.

Mr. ENGLISH. Mrs. Clayton.

Mrs. CLAYTON. You did respond to a question about the timetable, did you not? Let me ask a further question about the timetable. I guess the inquiry would be for you to make the inquiry of the Secretary. If you could have him to respond to his sensitivity to our wanting to move this piece of legislation forward and to see if his understanding of the timetable would be in conflict, it would help this committee.

Mr. BRIDGE. OK.

Mrs. CLAYTON. Thank you.

Mr. ENGLISH. Mr. Allard.

Mr. ALLARD. If we were to implement this bill as you interpret it, would this allow for the resolution of all of these disputes to be settled at the local level without having to come to Washington, DC during the final stages of the resolution of the disputes on some of the conservation plans that would come forward?

Mr. BRIDGE. I am not sure that it would change some of the concerns that producers now have on compliance related to their appeals process and so on. That's quite controversial, although I have to say that 99.9 percent of the producers in this country are complying and we're getting along quite well. But this doesn't solve all of those kinds of problems.

I think what this bill really does, and I resist suggesting this a little bit, but if you look back at the 1985 and 1990 farm bills, what we have seen is a real proliferation of programs that are sort of single purpose in nature and they relate to things like wetlands and water quality improvement, pesticide management, and all the good stuff that needs to be done. I see this bill as an opportunity to begin to tuck that together a little bit at the farm level, which is the one place that things have to get integrated. But it is pushing producers to come to the ASCS office and our office and saying, "Hey, I need a plan for this, I need a plan for that, and I need a plan for something else." And then, in the meantime, you have the requirements that are being imposed by the State water quality agencies and so on with another set of criteria. So the potential

here is fairly significant I think in terms of getting at some holistic solutions that producers can live with.

Mr. ALLARD. Mr. Chairman, I have had some concern expressed in my district about compliance with some of these plans and in the appeal process they end up having them come all the way to Washington, DC, which is not very practical and is very expensive. It seems to me that would be something maybe we could do in this piece of legislation is to make that a little clearer so that the individuals who are administering this clearly understand that a preferred way, at least mine, in trying to resolve some of these disputes would be that they don't have to come all the way to Washington for a final resolution.

Mr. ENGLISH. If the gentleman would yield?

Mr. ALLARD. Yes, I would be glad to.

Mr. ENGLISH. I would certainly agree what would be ideal is to try to make sure that appeals can be kept on a local level and try not to inconvenience farmers any more than we must. But the goal of the legislation is not even quite that ambitious; maybe we should be more ambitious in it. But the legislation is just trying to get us to one point where we have a central plan where not only USDA but other Federal agencies as well as State and local agencies will be able to plug in and hopefully have one consistent plan so that we can, hopefully, resolve the kinds of inconsistencies that we are finding in the law today and that we will have rules and regulations that are tailored to dovetail with a central plan.

I realize that we're talking about a lot of bureaucracy, not to mention various levels of government, and that this is not any small matter. But I think the farmers deserve to have some consistency as we apply our various conservation/environmental laws. I am hopeful that we can move ahead before we have additional laws passed so that this committee can consider how it may impact with regard to agriculture and hopefully have at least some impact on making sure that law takes into consideration a central plan that agriculture may have. Not that we're going to in any way take away from reaching of goals. I don't know of any farmers that object to the goals of any of these environmental laws. I don't know of any farmers that want bad water for their families or for their neighbors. I don't know of anyone who wants to destroy their land or poison the countryside or do anything of that kind. But I think there is a question of how we reach those objectives.

I think that, given the chance, farmers will be the finest environmentalists that this country has. But we have to have a farmer friendly approach to dealing with those objectives, and that we, as a committee, are going to have to play more of a role as we pass laws in Congress in trying to make sure there is a central plan that we can plug into. So that is generally what the objective of the legislation is.

Mr. ALLARD. Thank you very much, Mr. Chairman.

Mr. ENGLISH. Mr. Nussle.

Mr. NUSSLE. Thank you, Mr. Chairman.

One of the concerns that I have had is does this change the jurisdiction. While you may only have to go to the SCS office to get your plan approved, does this change any of the jurisdictions for future concerns with regard to farmers and regulations that might come

down the pike in the future? In other words, this takes care of what may have happened in the past and what is happening today, but it really doesn't take care of what might happen in the future with regard to regulations promulgated by any of these agencies or departments outside of SCS and what impact would that have on those future regulations.

Mr. BRIDGE. I am not sure I can answer that question. I don't envision it preempting anybody's authority in terms of rules and regulations. But I think it offers up the opportunity to really coordinate and to begin to bring together consistent sets of criteria, approaches, standards, and those types of things at the farm level.

Mr. NUSSLE. If we don't change the jurisdiction though or promulgation of those rules and regulations, are we really doing anything by having the coordination changed to one agency? I mean, yes, it makes it easier for maybe the short term, but in the long term, again, the regulations may be changed, as they inevitably are, and therefore the jurisdiction, since it still remains outside of SCS for a plan or two or three, does that really change much then with regard to the farmer if, particularly in the appeals process, they have to go through these different agencies?

Mr. BRIDGE. I don't know. Yes, the bill does set up that mechanism for coordinating with other departments. I think again, depending on how much jurisdiction you people want to take in, it would still have to be done on pretty much a goodwill basis but would certainly give strong encouragement to do that.

Mr. NUSSLE. We have given strong encouragement in the past.

Mr. BRIDGE. Right.

Mr. NUSSLE. That's why I am wondering if this really changes much if we don't, in fact, take that jurisdiction with regard to agriculture and land use and activities on the farm.

Mr. BRIDGE. As I read the legislation currently, it is a permissive thing to do, not a mandatory requirement that State water quality agencies and other Federal entities are mandated to do this.

Mr. NUSSLE. So in other words, if an agency or department decides to opt out of that because it is not mandated, they have the ability to do so?

Mr. BRIDGE. I believe that's right. Now, on the other hand, if there are some safeguards built in here that once you get a plan approved by the Soil Conservation Service that you have some assurance that you are no longer subject to some of the regulatory requirements floating around, that's a great incentive for somebody to join up and get their criteria and so on in a line with us.

Mr. NUSSLE. So if it is permissive only and not mandated, then in future regulations or in future laws that we pass or other committees work on and pass, they could exempt themselves from this either through regulation or through laws and, therefore, go outside this standard so that they would not be coordinated and could, in fact, set up separate structures again. That's possible?

Mr. BRIDGE. I would think it is.

Mr. NUSSLE. Which is my concern. The chairman has written a bill, the intent of which is I think tremendous. Because of the concerns that I know Mr. Allard heard when he was home, I heard the same ones not only with regard to the appeals process but just what line do I stand in, when and where, in order to get my ques-

tions answered, I think that is something we do have to be concerned about.

The chairman mentioned just a minute ago that maybe we're not aggressive enough. Maybe we need to at least attempt to be a little bit more aggressive in our initial draft to try and concern ourselves with those future problems that—

Mr. BRIDGE. As I understand this bill, too, it does not go beyond anything that currently exists in terms of cross-compliance requirements. It still sticks with the highly erodible land and the swambuster provisions, and I would hope that it doesn't get any beyond that. The other sides of it are voluntary, except as we make agreements and deal with State agencies, other Federal agencies, and so on.

Mr. NUSSLE. Thank you, Mr. Chairman.

Mr. ENGLISH. Will the gentleman yield on that?

Mr. NUSSLE. Yes, I would.

Mr. ENGLISH. I might make a point or two. I fully sympathize with what the gentleman is saying and, as Mr. Allard pointed out, I would agree. This legislation is not all that I would like for it to be. I would like to go much further to be honest with you, but I sincerely doubt that we could pass it through this Congress and I sincerely doubt that we would see any kind of improvement.

What we are doing is taking the first step here. We are trying to see if we can pull together the various laws, rules, regulations, Federal, State, and local entities and encourage them to work together. You are absolutely right, there is nothing in this proposal that requires them to do this or requires them to do that. We are also trying to provide the farmer with some measure of protection if he does comply. If he does make the effort and does comply, that we do give him some measure of protection. That is not to say that we're not going to have some Government agency out here on a Federal level or State level or local level that may decide that, hey, we don't want to be involved in that; we don't care whether the farmer can comply with this inconsistency in the law and we're going to stick it to him anyway. If that is the attitude of an agency, you are absolutely right, there is nothing that we can do about that.

But I am hopeful that we will be able to bring pressure to bear not only through this act but in future legislation, because I am going to be encouraging this committee to bring into this committee any legislation that may affect farmers so that we may be able to put our thumbprint on it, if you will, in applying it to a central plan so that we can bring some consistency. As I said, there is no intent whatsoever to in any way evade any goal of any environmental plan that is passed. It is a question of how we get there.

We should be able to make that farmer friendly and that's the whole bottom line. In the long run, I think the farmer is going to be better off, his land is going to be more valuable, and the community is going to be better off in having an environmentally safe farm, if you will. But there is a question of how we get there as to whether it is economically possible for that farmer to survive. If we have people drawing up rules and regulations without any consultation whatsoever with people that know something about agri-

culture, it is going to be devastating for our farmers, and we are already seeing our farmers run into that.

So we are trying to move in that direction, trying to pass a bill and do what we can to achieve that goal. But the bottom line, first thing we have to do is get this thing in place. The second thing is we have to make sure the Soil Conservation Service is able to implement it as intended. If we can just get it started within USDA, then we will reach out and encourage other Federal agencies and State and local agencies to plug in and be a part of it. That is what we are hopeful of. But it is not going to be something we can do in the next 30 days.

Mr. NUSSLE. Thank you.

Mr. ENGLISH. Mr. Baesler.

Mr. BAESLER. No questions.

Mr. ENGLISH. Mr. Johnson.

Mr. JOHNSON. I commend Chairman English on putting this bill together because I am very much supportive of the goals of the legislation. One concern I would have is whether the administration believes that this issue ought to be incorporated into its overall reorganization effort or whether Congress ought to be going ahead with its own reorganization plans. From your perspective, Mr. Bridge, I wonder if you would comment one way or another about whether there is anything consistent or inconsistent with this legislation vis-a-vis plans that USDA has for overall reorganization.

Mr. BRIDGE. Mr. Congressman, I think the Secretary is asking to reserve the opportunity to decide that and has suggested, at least in the testimony that I have given, that it is related to the reorganization of the Department and that some of these issues, as a result of reorganization, could perhaps be better resolved by waiting for that to happen.

Mr. JOHNSON. I apologize for coming in late and asking you to reiterate something that no doubt you have already been discussing. While I appreciate the administration's desire for retaining some flexibility on its own reorganization efforts, I am concerned that this not somehow be lost in the shuffle and that we wind up say "No, after you; No, after you." And the year goes on and the next thing you know we have not made any progress on consolidation and streamlining the way these matters are handled. I just want to emphasize to you that I think this is a matter of some urgency and whether we go with Mr. English's legislation or whether we go with USDA's own plans, I would hope that we would be very proactive in this regard and move ahead with some vigor.

Mr. BRIDGE. I appreciate that.

Mr. ENGLISH. Mr. Barrett.

Mr. BARRETT. Thank you, Mr. Chairman.

I, too, apologize for being late and not having had the benefit of your testimony, Mr. Bridge. I believe the 1985 farm bill created the conservation compliance program and I think by 1995, all those programs under the SCS jurisdiction are to be fully implemented. As I believe I read, the bill calls for an implementation of 1994, does it not?

Mr. BRIDGE. This bill?

Mr. BARRETT. Yes, right. The obvious question is, aren't you going to be very hard pressed, and perhaps you touched on this earlier, to administer both of those programs?

Mr. BRIDGE. Yes, and they are highly interrelated because what we're doing on the compliance side would also be related to this. But the timetables are of some concern and I would suggest that they probably need to be looked at very carefully and perhaps look at the option of tripping this in at the end of 1994, using 1994 itself to develop the rules, regulations, procedures, work out some pilot testing maybe. And then as we come to closure on some of the highly erodible land issues, this could become the next generation of that activity I guess is what I am saying.

Mr. BARRETT. Full implementation perhaps in 1995?

Mr. BRIDGE. In terms of the planning process. Now, don't expect producers and farmers and so on to have everything on the ground for a long time because it is a voluntary approach and the amount of work and activity will basically be generated by the number of producers that are seeking cost-sharing incentive payments or participating in farm programs.

Mr. BARRETT. So then you would concur that there might be a problem on timing and that perhaps that should be looked at by this subcommittee?

Mr. BRIDGE. Yes. I don't think it is a big one, but it ought to be looked at.

Mr. BARRETT. Thank you very much.

Mr. ENGLISH. Any further questions?

Thank you very much, Mr. Bridge. We appreciate your testimony.

Our next witness is Mr. Jerry King, who is chairman of the environmental committee for the National Pork Producers Council. Mr. King, we will be happy to receive your testimony. If you would care to summarize that testimony, without objection, your complete written testimony will be made a part of the record.

STATEMENT OF JERRY KING, CHAIRMAN, ENVIRONMENTAL COMMITTEE, NATIONAL PORK PRODUCERS COUNCIL

Mr. KING. Thank you, Mr. Chairman, and members of the subcommittee. My name is Jerry King and I am a pork producer from Victoria, Illinois. My family operation consists of 1,160 acres of farmland and a farrow-to-finish operation that produces approximately 38,000 hogs per year. For the past 2½ years, I have been chairman of the National Pork Producers Council's environmental committee.

On behalf of NPPC's 85,000 members, I would like to congratulate you on introducing legislation that strikes at the heart of farmers' frustration with government.

Mr. Chairman, 1 year ago, I testified before this committee regarding the effectiveness of USDA programs in addressing water quality issues. In my opening remarks last year, I spoke of the need to integrate existing USDA conservation and water quality programs with any new nonpoint source provisions affecting agriculture. NPPC has maintained that SCS should be the lead agency in developing and implementing any new water quality provisions related to agriculture. Finally, we have proposed that adoption of,

and conformance with, a voluntary environmental management plan should provide a producer with some assurances with regard to environmental liability. Today, I return to Washington to commend you for putting together a bill that accomplishes these three objectives.

H.R. 1440 speaks to the need for long-range planning to promote practical and economically feasible solutions for producers. If regulations force me to make sudden changes, my cost of compliance is going to be higher. Having a plan allows me to incorporate any changes into my crop rotation and into my financial planning to ensure that these changes are accomplished in a least-cost manner.

NPPC wholeheartedly supports H.R. 1440. The coordination of current and future environmental programs affecting agriculture is a prime concern for pork producers. The provisions of H.R. 1440 represent the best proposal to date for accomplishing this objective. We would offer the following suggestions to make the bill even more effective.

One, extend the deadlines in sections 5(c) (3) and (4). The aggressive goals for drafting these plans may actually do a disservice to the agricultural community they are intended to serve. It is imperative that conservation compliance plan implementation remain SCS's first priority at least until the December 31, 1994 deadline.

Second, strengthen the language in section 5(c)(6)(a) regarding the coordination of environmental programs with agencies outside of USDA. We would encourage clearly directing other Federal agencies to enter into agreements with USDA. Few agencies involved in natural resource planning will be willing to transfer funds and authority to USDA unless congressional intent is clearly established.

Third, ensure the legislation takes into account watershed-based concerns in addition to the site-specific problems. Although it may be the assumption that site-specific plans would address the watershed-based problems, this should be clearly stated in the law.

Fourth, add odor to the list of natural resources that must be incorporated in the plan listed in section 5(e)(3). Odor is an inherent characteristic in livestock production. We feel it is imperative that odor issues be included in any natural resource management plan. Plan recommendations that focus exclusively on water quality may still not be economically viable for a producer who lives in the shadow of suburbia. Agricultural recourse management plans must allow producers the flexibility to address this important issue.

As Congress considers legislation to change the responsibilities of the Soil Conservation Service, there may be concern as to how these changes might affect any future reorganization of USDA. I believe the proposals in H.R. 1440 should be considered inconsistent with the goals of reorganization.

H.R. 1440 specifically references the Soil Conservation Service, but the bill is really about who will perform the functions of natural resource planning. Whether SCS becomes the Agriculture and Natural Resource Agency or a part of the Farm Service Agency is irrelevant to this debate. From agriculture's standpoint, the answer to the question of who will perform natural resource planning is easy. Producers have a working relationship with their local SCS and ASCS officials. County ASCS and SCS employees know the producers and they know the land in their counties. These county

employees are the people best suited for deciding the environmental management measures appropriate for a specific farm in their county and for supplying the technical assistance that those producers are going to need in implementing these measures.

The pork industry recognizes the role that we, as members of the agricultural community, must play in protecting our environment. However, protecting the environment for today's society and for the benefit of future generations is something that we cannot do alone.

As new programs and regulations are thrust upon agriculture, there must be a consistent rational approach to environmental management. Today's piecemeal approach to environmental legislation frustrates both farmers and the general public. True progress toward a sound agricultural environment is thwarted by ever-changing and contradictory regulations aimed at solving a multitude of natural resource problems. H.R. 1440 represents our best chance to change this pattern.

NPPC would like to commend the bill's sponsors and offer our full and total support in securing passage of this vital legislation.

Thank you, Mr. Chairman.

[The prepared statement of Mr. King appears at the conclusion of the hearing.]

Mr. ENGLISH. Thank you very much, Mr. King. I appreciate your testimony. I also fully appreciate the recommendations you made. I think you have made some very fine suggestions.

I might say with regard to the deadline, I would agree with the observation you made on the deadline and the conservation compliance requirements of the 1990 farm bill and the importance of the Soil Conservation Service making that their first priority. I am in full agreement with that. Our concern is that if we don't start moving a bit quicker, that this problem is getting ahead of us. As Mr. Combest made the observation, we're trying to get ahead of the curve here and we feel that, too, is a very important priority.

I have stated time and again, and I again want to state it here today, that the first priority of the Soil Conservation Service has to be compliance with the provisions of the 1990 farm bill, making sure that farmers have the opportunity to comply with the provisions of the 1990 farm bill, and they need to make sure that they have adequate resources to do that; and you are absolutely right about that.

As far as the other agencies being a part of that, Mr. Nussle I think made a good point on that and, again, I agree. This legislation will get referred to about a dozen different committees once we put those provisions in and that is the reason they are not there, quite frankly. We feel that at this time we have to establish the plan, establish the principle, make sure that the Soil Conservation Service and Department of Agriculture gets it underway, and then I think we're able to come back and make the arguments to our sister committees that they should in fact start requiring the various agencies to plug in. But that will have to be at a later date.

We have still got, quite frankly, a number of people that are going to have to be convinced that this plan is truly in place, that the Soil Conservation Service is truly in a position to carry it out, and that we're not going to be failing to meet the environmental goals of the Nation that may be set out in other laws before we can

make that argument. So I am afraid that one is down the road a bit before we can achieve that.

But you are absolutely right in what you are saying, and I deeply appreciate your testimony.

Mr. Allard.

Mr. ALLARD. I don't have any comments or questions, Mr. Chairman.

Mr. ENGLISH. Mr. Barrett.

Mr. BARRETT. No comments or questions, Mr. Chairman.

Mr. ENGLISH. Mr. Barlow.

Mr. BARLOW. Thank you, Mr. Chairman.

I am just very glad you are here today. I read your statement. It is an excellent statement. Both the testimonies here today are excellent and right on point. I have the privilege of working very closely with the pork producers in western Kentucky, and we out there have been running into these problems of governmental agencies from all levels and all points of the compass coming in on agricultural problems. I am very happy that Mr. English is moving us ahead quickly to consolidate here and make things more efficient in the field.

I know right down there at the ground level our pork producers in western Kentucky are coming up with the methodologies for solving problems in an efficient and low-cost manner, problems of water quality, for example, at the farm level. We have concentrated animal feed lots out there which are now sluicing their run-off into artificial wetlands. For only a couple of thousand dollars, we are solving a problem that the State agencies have been trying to tell us each farmer would have to spend \$30,000 just to monitor. And here we are heading off the problem without even the need for monitoring and only for a couple of thousand dollars.

The farmers are out ahead, as you know from the pork council. I look forward to working with you here in Washington and with our pork producers in Kentucky. Thank you very much.

Mr. ENGLISH. Ms. Long.

Ms. LONG. No questions, Mr. Chairman.

Mr. ENGLISH. Thank you very much, Mr. King. We appreciate your testimony.

Mr. KING. Thank you for the opportunity, Mr. Chairman.

Mr. ENGLISH. We're looking forward to working with you.

Our final witness today is Mr. Donald McKenzie, a resource associate with the Wildlife Management Institute here in Washington. Mr. McKenzie, we appreciate your coming before us and will be happy to hear from the Wildlife Management Institute.

STATEMENT OF DONALD F. MCKENZIE, RESOURCE ASSOCIATE, WILDLIFE MANAGEMENT INSTITUTE

Mr. MCKENZIE. Thank you, Mr. Chairman. We appreciate this opportunity to testify.

The idea in H.R. 1440 that SCS should combine all USDA requirements for a farm into a single, site-specific comprehensive resource management plan is basically sound. This bill is designed to provide relief to farmers. It makes no attempt to achieve increased conservation on the ground. It does inadvertently create the potential to weaken established conservation achievements.

WMI can support the idea of a single comprehensive plan as well as some secondary aspects of the bill, such as targeting planning to specific environmentally sensitive watersheds and coordinating cost sharing and incentive funds. However, we cannot support other elements as written, such as possible delegation to SCS of authority to determine compliance and grant permits and exemptions for an array of environmental programs, provision of liability protection to farmers, lack of accountability for SCS to produce quality plans, absence of minimum standards in the statute, and potential weakening of established conservation requirements.

WMI supports fully the coordination of cost-share and incentive opportunities among Federal and State agencies. However, this bill could result in a dual system that would inhibit coordination of farm conservation efforts. H.R. 1440 requires that all requests for USDA cost sharing on land for which a single plan is in effect would be made through SCS. WMI assumes, then, that requests from farmers regarding land not subject to a single plan would continue to be made through ASCS.

This scenario could be avoided by utilizing USDA cost sharing and incentive programs to motivate additional farmers to seek a comprehensive plan. We recommend that a comprehensive resource management plan be made an eligibility requirement for any farmer who wishes to participate in any USDA cost share or incentive program.

WMI also supports a provision to prioritize planning efforts based on specific environmentally sensitive watersheds, but we think emphasis on targeting is needed. This bill should consider granting SCS the authority, in concurrence with State technical committees, to target appropriate assistance to priority conservation areas by considering all requests for assistance in the context of a larger, ecologically based watershed plan.

WMI support this bill's attempt to foster a higher degree of coordination of conservation requirements and initiatives among agencies. SCS undoubtedly is the logical entity to lead such planning efforts. It is not necessary, however, for SCS to assume legal responsibility for determining compliance or granting permits and waivers in order for planning to be effective.

SCS leaders and staff continually insist that the agency has no desire to assume regulatory or enforcement roles. As a result of this attitude and SCS's track record on enforcement, WMI does not support delegation to SCS of any authorities now legally vested in other resource agencies. WMI is convinced that other Federal and State agencies would be eager to cooperate with SCS to fully incorporate environmental requirements into the comprehensive plans if the other agencies' concerns about excessive SCS authority could be addressed.

The standards and criteria in H.R. 1440 are vital to its effectiveness. A set of sound standards could allow the ideas in this bill to flourish and provide meaningful long-term benefits to agriculture, society, and the environment. Weak standards that do not challenge the status quo would, at best, provide only short-term benefits to agriculture while perpetuating some negative impacts to natural resources.

Nationwide minimum nondegradation standards ought to be incorporated in broad, clear terms into the bill, including elements of soil erosion reduction, wetlands protection, and water quality restoration and maintenance. Clear language also could be added to ensure that under no circumstances would any standards and criteria be less protective than any existing protective measures.

The liability protection clause places a tremendous performance burden on SCS. All the worthwhile progress being attempted with this bill hinges on the quality of the plans produced. Creation of inadequate plans would render this bill, as well as other existing and future resource protection authorities, ineffective. No single agency in the Federal Government could shoulder this large burden effectively.

According to the liability clause as written, the comprehensive plan would replace the standards and criteria as the benchmark for judging all future activities. If farmers are given bad advice, no recourse would be available to protect the resources because neither the farmer nor the SCS would be held accountable.

This situation of uncertain accountability is not acceptable. The minimum acceptable benchmark is the standards and criteria relating to the resources of concern. SCS must be held accountable to provide quality assistance, to ensure its plans will meet the minimum standards. If SCS provides inadequate advice, then that advice, not the farmers' obligations, must be changed.

In WMI's opinion, the convenience of having a single comprehensive plan should be sufficient incentive for farmers to participate in this comprehensive planning process. The liability provision thus is unnecessary.

In any discipline, few resource management professionals would be capable of producing comprehensive plans that would satisfy all environmental requirements. Therefore, this bill should consider directing that a team approach would be utilized to produce adequate plans. SCS should be required to seek and obtain planning, implementation, and monitoring assistance from other agencies, including State technical committees.

Because accountability is an issue and creation of the plans would be such a burden, outside oversight would be needed. WMI recommends that an administrative appeal mechanism be added to facilitate outside oversight on the quality of the plans and compliance determinations. Furthermore, a clause could be added that if any plan is demonstrated to be inadequate to meet the standards and criteria, that plan should be corrected immediately.

This bill would add a tremendous burden to SCS's already excessive workload. We recommend that at least a year be provided to devise sound regulations to help this bill achieve its full potential. Also, the 1996 deadline for full implementation should be extended, possibly providing up to a 10-year phase-in period.

H.R. 1440 begins with a good idea—a single site-specific resource conservation plan for farms. WMI would like to offer an alternative scenario for expanding on that idea to promote watershed-level planning and conservation.

The vision of H.R. 1440 is limited to individual farms, independent of larger and more important considerations about the watershed and ecosystem of which each farm is a component. The bill

states that plans are required to promote efficient long-term production of food and fiber. A fully comprehensive conservation initiative would interpret this standard with due consideration to the watershed, the ecosystem, and the environment of the Nation as a whole, rather than just at the level of individual farms. Perspectives on how to best manage specific tracts would undoubtedly change dramatically at different scales of consideration.

WMI suggests that the concept of watershed planning, as theoretically embodied in SCS's small watershed program, should provide the foundation upon which individual farm plans are based. Watershed plans would set objectives and goals to guide subsequent individual farm planning.

Only with such a logical step-down of resource and societal needs, from the regional and national levels to the individual farm, can comprehensive resource conservation truly be accomplished to ensure the simultaneous sustainability of agricultural and natural resources. Such an approach would put American agriculture at the forefront of efforts to accommodate sustainable use of resources, ecosystem management, and biological diversity in a practical way on the landscape.

WMI realizes that such an alternative scenario is no small consideration. However, we are convinced that the probable benefits of such an ecologically based watershed level approach would pay large dividends to agriculture, society, and the environment for the extra work invested to implement it. WMI is prepared to assist in forming such a program.

Mr. Chairman, thank you for this opportunity.

[The prepared statement of Mr. McKenzie appears at the conclusion of the hearing.]

Mr. ENGLISH. Thank you, Mr. McKenzie. I appreciate your testimony. I think you have made some good points, some of which I frankly think are wholly consistent with the bill. It may be more a question of intent here that perhaps needs to be cleared up.

For instance, your proposal with regard to an area of concern, whether it is watershed or whatever it may be, I think you are on target on that and that would be what we would expect. The intent of this particular piece of legislation is to apply the laws as they are needed, and that is the reason that you have an overall basic plan. I would assume that plan would be a part of the consideration of the general area. So, in fact, for instance, as you pointed out on the watershed, obviously, the laws that would come into play would apply to that particular farm and its contribution in that watershed definitely would be a part of this overall concept, and that is certainly what is intended.

The second thing. I agree with you from the standpoint of other agencies and laws and how those are to be applied. One of the requirements I think is, if you would, the Soil Conservation Service in shouldering this responsibility, and the Department of Agriculture in general, quite frankly are going to have to win the trust of others who are involved, and particularly when you are talking about other Government agencies and particularly when we start talking about State and local. I don't see that there is really any way from a practical political standpoint that the Agriculture Committee can pass a piece of legislation through the U.S. Congress

and have it signed into law by the President of the United States which is not in fact going to meet the overall objectives and goals of the laws that are already on the books or those that we may see in the future. But at this particular point, we are starting out with the Department of Agriculture. We are in fact giving the Soil Conservation Service the charge of meeting those goals, as it is defined within the Department of Agriculture. We would assume that this would be wholly consistent and certainly would not in any way be contrary to any proposals that the Secretary of Agriculture may have in his reorganizational efforts. To the contrary, I think this would be exactly the direction of any kind of consolidation that he may have in mind, and it certainly makes sense from that stand-point.

We feel that the Soil Conservation Service and Department of Agriculture are going to have to win the right, if you would, to develop the plan. What we are doing here is giving them that opportunity. For the sake of the American family farmer, and I've told them this several times privately, we can't afford for them to fail. This subcommittee intends for them to be successful in that overall effort.

The time period you are talking about, you may be right. Maybe I would even go so far as say you are probably right. I am not sure that we can afford for you to be right though. We have to move on this thing and the intent of this legislation is to get into the forefront of this effort and not to simply be constantly reacting. We intend to do this with other pieces of legislation, as I mentioned.

But I think you have made some excellent points. I appreciate those points, and we do want to work with you. It may be that we need to clarify exactly what is expected as we move ahead. But it is voluntary and that has to be stressed. It is voluntary as far as other Federal agencies. There is no way that I can see—and I may very much like to do this quite frankly for my farmers—but there is no way that I can see that I have a chance of moving legislation through the U.S. Congress that will make it mandatory today in light of where we are with the capabilities of the Soil Conservation Service, in light of where we are with regard to the overall efforts by the Department of Agriculture. So as I said, we are going to have to win that right and we understand that.

I am looking forward to working with you on that.

Mr. MCKENZIE. Thank you.

Mr. ENGLISH. Thank you.

Mr. Allard.

Mr. ALLARD. No questions, Mr. Chairman.

Mr. ENGLISH. Mr. Barlow.

Mr. BARLOW. Mr. McKenzie, I want to compliment you and the institute for very fine testimony. It is right on point. I don't think that there is any sharp division here among all the testimonies that we have heard at these hearings. There is a lot of common ground and we're going to find points of agreement. I associate myself very much with our chairman here, we want to be out in front and we don't want to delay on this thing because we can be providing a lot of cost-saving measures to farmers out there if we move quickly.

Thank you very much. Thank you, Mr. Chairman.

Mr. ENGLISH. Thank you very much.

Mr. Pomeroy.

Mr. POMEROY. Thank you, Mr. Chairman.

Mr. McKenzie, I would like to echo the chairman's comments about your thoughtful testimony. I think it is substantive. There is an area where I disagree with you. All the regulations in the world really won't have much effect on farming practices unless the regulations are clear and unambiguous, understood by the farmer, and enforceable. I think that the bill makes a laudable effort to pull it together so the farmer can turn to one source and say "What do I have to do to manage my land in compliance?" and have some assurance that for exercising their farming practices in that way they will, in essence, be in compliance.

I hear many businesses in North Dakota, not just farmers but also business, say whether I like the regulation or not isn't relevant. For me to do business, just tell me what I have to do and I'll do it. And, yet, the Federal Government, due to a plethora of regulations added over a period of time, sometimes even conflicting, often is not in a position to tell them exactly what they have to do. And so the liability feature of this bill I think is really a key feature.

If we do repose in one agency the authority to bring it altogether, work with the farmer, get a plan, get the farmer's signature on the plan, and then have the subsequent practices in conformance with that plan, by golly, we shouldn't have that individual face external exposure for some other regulatory technicality that, due to the Federal Government's failing, might not have been included in the plan. Wouldn't you say that is just simple fairness?

Mr. MCKENZIE. On the face of it, that sounds very logical, I agree. The concern that I have is—I hate to keep pointing fingers at the agency—the SCS has a tremendous workload right now that they have trouble meeting. This bill would add further workload on it.

This liability provision would place the whole weight of all the environmental requirements on the quality of the plan that was produced. If that plan is of sound quality, then the farmer has nothing to worry about. He is not going to be susceptible to any environmental requirements because he will already be meeting them. If, for whatever reason, the plan does not meet the requirements, the standards and criteria, then in my mind it is analogous to the IRS and somebody filling out their tax form. If I go to H&R Block and they give me bad advice, that doesn't mean that I don't have to pay the taxes; I still have to pay the taxes, I just have to change the tax form and make the corrections, even though I have gotten advice from somebody who is supposed to know what they are doing.

Mr. POMEROY. It seems to me fundamentally, however, if Government doesn't have the capacity to effectively impose its own regulations, that's Government's fault, not the producer's fault. And that the producing, complying with a centralized comprehensive plan, fulfills his obligation; if Government screws it up, that's Government's fault, it shouldn't fall back on the producer.

Mr. MCKENZIE. In my mind, as I said in the testimony, the standards and criteria need to remain the benchmark that we are

all striving for. I just disagree about placing all the weight on the plan. The plan should be the best effort of the Government and the Government should be in a position to tell the farmer exactly what he needs to do. And assuming the Government is in that position and does it, then there is no problem whatsoever with liability on anybody's part. But I hate resting all my confidence on the plans being of sufficient quality from county to county and farm to farm all across the Nation.

Mr. POMEROY. One final comment, Mr. Chairman.

I think your record and your statement indicate that you have a thoughtful, fairly even-handed approach to this issue. I would just continue to encourage you to really try and understand the producer's perspective. After all, our ability to achieve positive environmental objectives through the Federal structure is only going to work if the producer can understand and then reasonably comply. So empathize with that old producer as you evaluate these issues.

Thank you.

Mr. MCKENZIE. Thank you.

Mr. ENGLISH. I would like to follow up on that, and then I know Mr. Barlow has a question.

The point I want to stress again is to recognize that this is a voluntary involvement by other Federal agencies, State, and local. Now unless they have confidence in the plan that is being developed—and without question agreements will have to be reached with those agencies in their involvement and the execution of those plans.

But, again, I think Mr. Pomeroy is absolutely correct. The bottom line is that if this is the Government's best shot and the Government says this meets all the laws, rules, and regulations of all of those of us who are involved, then it shouldn't fall back to be the farmer's responsibility or the farmer's fault or the farmer's vulnerability. As it appears today, farmers are looking at increased vulnerability from law suits, and not just from the Government but from various outside groups who for one reason or another have their own interpretation of the laws, and the farmer is being yanked from pillar to post. And you heard today from the Soil Conservation Service that we have conflicts between Government agencies. Which one of these agencies do you listen to?

There has to be some way that we can provide some kind of relief for that farmer who, in fact, has been certified by the U.S. Government as having met the requirements of the law. We do this with regard to other programs. Farmers have to be certified to be in the farm program as having met those obligations.

Certainly, I would think that if we are looking at the environment as a whole—you induced the watershed concept. If we're looking at the environment of the whole of that watershed, if the Government screws up on one farmer, is that truly going to damage the entire watershed area before the plan can be corrected or changed? Is it really worth that much? Does it make that much sense?

At some point, we have to strike a balance here. And as I said, what we are attempting to do is put together a plan that allows the farmer in a way that is economically possible for him, not to

mention practical for him, to meet the overall goals and objectives. If that is what our real concern is, is that goal, is that objective, then certainly we should be able to work within a central plan.

There is no question in my mind that you are going to have instances, as you point out, where Government screws up. These are human beings we are dealing with and they are going to screw up. Whether you talk about the Soil Conservation Service, the Environmental Protection Agency, or the White House, there are going to be mistakes made because you are dealing with people. Certainly, we are not doing anything here that would prevent any kind of correction when those errors are discovered. It is just that we are saying that the farmer shouldn't be the one who bears the brunt for someone else's error. And that seems fair to me; wouldn't you agree?

Mr. MCKENZIE. Once again, that does seem fair on the face of it. If I may for one moment give a view from the other side. Everybody here I think agrees that we would like all State and Federal agencies to work together to come up with the best plan on every farm. I have a pretty high degree of confidence that the liability provision is going to be the biggest roadblock to getting cooperation and input from outside agencies because they are going to be afraid that they give up their rights—

Mr. ENGLISH. Could I interrupt you right there. I would take issue with you on that. The reason is that what will be required is for those agencies to reach agreements with the Soil Conservation Service. So whatever demands, safeguards that they feel are necessary with regard to not only the plan, the rules, the regulations—and certainly that is what we want coordinated—but also the determination of compliance would be contained in those agreements.

So I would differ with you unless we have a Government agency out there that says, "I don't want this burden on my back if I screw up. I don't want to be the one that catches the heat and the blame. I want to be able to go out and blame that farmer, even though he carried out my plan. Let's blame him, don't blame me because I screwed up with the plan." You see what I mean? So I would hope and I would certainly expect that any agency whose integrity is worth their salt is going to be able to go into that reaching an agreement in which they feel comfortable.

But those agencies have to stand by their own decisions. You can't blame the farmer for errors of Government, and certainly we can't blame farmers for the errors of a Government agency. Whether we have a plan or don't have a plan, it seems to me it is going to be darn weak for a Government agency to stand up and say, "Golly, gee, we don't want to be blamed for our mistakes." And we haven't said anything about that.

I really think that any of these agencies that are involved are going to have to reach those kinds of understandings and agreements, and written agreements I would assume. And I would expect that they would be involved in the compliance. I don't think that you are simply looking at Soil Conservation Service writing off on an EPA regulation or an EPA law. I would think that certainly EPA is going to have its own people in there and there is going to

be joint agreement with regard to the meeting of the compliance and the plans before they are signed off on.

Mr. Barlow.

Mr. BARLOW. Thank you, Mr. Chairman.

I just want to say that I think Mr. Pomeroy has put his finger on some very important points. It is not just his feeling, it is the feeling of all of us in Congress on all sides of the issues here that we have to simplify, we have to make the burden less heavy for people out in the field. They have to understand what we are trying to accomplish here, and to help them understand, we have to make things easier. There is a lot of redundancy. There is a lot of complication. Some of this may have been hatched back in the early days to catch attention. The attention has been caught now and I think everyone wants to move toward constructive goals and how can we make that movement easy.

I hope there might be a way out of this difference over liability. These plans are not locked in concrete; they are going to change with time as we come up with better management systems, less expensive management systems. And maybe there is a way to relieve the liability, relieve any potential for liability if the plan keeps moving ahead, keeps evolving, and, in the evolution, maybe coming up with simpler, less expensive ways of doing things. Might you think this might be a way to let the liability go by the wayside, with people, in their best efforts and best intentions, trying to achieve improvement?

Mr. MCKENZIE. Absolutely. I would feel more confident if we allowed the agencies the opportunity to mature or get together and do what they are supposed to do cooperatively, to come up with the best plan. I hate to assume we are instantly going to get everything in a perfect working order.

Relating back to all three of your comments, WMI's vision of this liability clause is not that farmers would be taken to court if they acted on bad advice, it is that that bad advice would not stand. The farmer would merely be responsible for implementing a revised plan. We are not talking about making him susceptible for million dollar lawsuits. But the Government—whether it is SCS, Fish and Wildlife, EPA, whoever—has to be accountable for the advice they give. If they give bad advice, somebody has to call that agency to task.

Mr. ENGLISH. Let me just say that is certainly the intent. There is no intent that once the plan is set that plan never be changed. If there are mistakes made, obviously corrections need to be made. If corrections then are required because of an error by Government, and should the farmer then not comply with the corrections required, then certainly he would be vulnerable. There is no question on that.

I think the only thing we're saying is that if it is discovered that an error has been made and that farmer has implemented a Government's error in judgment, that the farmer then not be held liable. That's really what this is after. There is not in any way any intent that once the plan is there, even if we discover an error, even if a correction is ordered, if that farmer never makes a change, then you cannot take any action against him. That is not the intent and we will be happy to get that straightened out. That

is not my intent and I don't think it is the intent of any member of this committee.

Mr. Barlow, had you finished?

Mr. BARLOW. No. We just want to reward good faith. Thank you.

Mr. ENGLISH. Mr. McKenzie, I want to thank you for your testimony. As I said, I think you've got some good ideas which we will try to incorporate and we will try to clarify some of these areas where there may be questions. As I said, I don't think there is a problem with regard to our intent, and we will try to make sure that we work our way through it. I appreciate the testimony that you have brought to us. Thank you very much.

Mr. MCKENZIE. Thank you for the opportunity. I think this bill has a lot of potential.

Mr. ENGLISH. Thank you, sir.

Any other comments? Mr. Pomeroy.

Mr. POMEROY. Nothing further.

Mr. ENGLISH. Mr. Barlow.

Mr. BARLOW. No, Mr. Chairman.

Mr. ENGLISH. With that, we will recess subject to the call of the Chair. Thank you.

[Whereupon, at 11:55 a.m., the subcommittee adjourned, to reconvene, subject to the call of the Chair.]

[Material submitted for inclusion in the record follows:]

Statement of
Galen Bridge
Acting Chief, Soil Conservation Service
United States Department of Agriculture

before the
Subcommittee on Environment, Credit & Rural Development
Committee on Agriculture
United States House of Representatives

Concerning H.R. 1440
The Site-Specific Agricultural Resource Management Act of 1993
April 20, 1993 — Washington, D.C.

MR CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

I am pleased to have the opportunity to testify before you today. We share your desire to improve environmental planning within the Department of Agriculture (USDA) and look forward to working with you and the subcommittee on this issue.

The Department fully supports the concept of integrated resource management planning. However, in order to provide the Secretary with the needed flexibility during reorganization of the Department, we recommend that the authorities in H.R. 1440 be delegated to the Secretary rather than to a particular agency within the Department. The Secretary has indicated his desire to move swiftly on reorganization. Furthermore, the fiscal year 1994 budget proposes a Farm Service Agency that consolidates the Agricultural Stabilization and Conservation Service, Soil Conservation Service, and the Farmers Home Administration. We anticipate that these actions will enable

USDA to more effectively coordinate the conservation and environmental requirements of the statutory authorities that we implement.

Because of the pending reorganization, at this time it is impossible for us to testify as to the direction the Department will go and we are not prepared to discuss the merits of H.R. 1440.

Most conservation plans are single purpose in nature, that is, a single conservation plan is created to comply with one program's requirements. For some time now, the Department of Agriculture (USDA) has been concerned about the increasing number of these plans. A single, integrated conservation plan should be developed that considers the conservation and environmental obligations necessary for agricultural land users to receive USDA benefits, comply with environmental regulations, and undertake voluntary conservation efforts.

Our goal is to improve and streamline the Department's environmental planning process for agricultural land users. We believe that an integrated approach should guide USDA environmental planning efforts. Such an approach would identify the environmental problems on a watershed or regional basis and then incorporate the solutions on a site-specific basis. We also believe that any plan should be "farmer-friendly," flexible, and environmentally responsive, and we recognize that a key component in achieving success is the involvement and participation of the landowners in developing a plan.

The Department strongly supports interagency cooperation. No one agency has all the resources to do the planning or the enforcement that the bill envisions. We believe that, by combining the skills that exist within USDA with those in other Federal, State and local entities, the necessary expertise would be available to develop and enforce site-specific plans.

As I mentioned earlier, we ask for time to submit our reorganization proposals. We look forward to working with you and the subcommittee on this issue.

That concludes my prepared remarks. I appreciate the opportunity to testify before you today, and will be happy to respond to any questions you may have.

Common USDA Conservation/Environmental Plans

The following are the primary USDA conservation or environmental plans:

1. **Voluntary Conservation Plan - Resource Management System**
2. **Conservation Compliance Plan**
3. **Conservation Reserve Program Plan (CRP)**
4. **Agricultural Conservation Program (ACP)**
Long-Term Agreement
5. **Water Quality Incentives Project (WQIP) Plan**
6. **Watershed Protection and Flood Prevention Act (P.L. 566)**
Long-Term Contract
7. **Great Plains Conservation Program (GPCP) Planning Principles**
8. **Wetland Reserve Program (WRP)**
9. **Water Bank Program**
10. **Integrated Farm Management Program**
11. **Colorado River Salinity Control Program Plans**
12. **Wetlands Restoration/Mitigation Plans**
13. **Rural Clean Water Program (RCWP) Plans**
14. **Rural Abandoned Mine Program (RAMP) Plans**
15. **Stewardship Incentive Program**

Common USDA Conservation/Environmental Plans

The following are the primary USDA conservation or environmental plans:

1. Voluntary Conservation Plan - Resource Management System

SCS provides resource planning assistance upon request by a land owner or user. The plan is a set of landowner decisions that meet Field Office Technical Guide quality criteria for the safe use and management of soil, water, air, plant, and animal resources. The decisions reached as a result of the planning process are recorded in a conservation plan, which describes treatment needs and a schedule for implementation. A copy of this plan is provided to the customer.

2. Conservation Compliance Plan

This is a plan developed by a producer with the technical assistance of the Soil Conservation Service to meet the requirements of the Food Security Act. The plan is a record of decisions that describes treatment needs and a schedule for implementation. It is based on the Field Office Technical Guide but addresses only soil erosion on highly erodible lands.

3. Conservation Reserve Program Plan (CRP)

SCS helps CRP applicants develop specific conservation plans for acreage accepted into the program. The plan contains, as a minimum, the conservation practices required for establishment and maintenance of permanent vegetative cover over the 10-15 year contract period. Other specifics include, but are not limited to: (a) application schedule for practices, (b) cost-shared amounts, (c) a conservation plan map, (d) job sheets, (e) standards and specifications, and (f) maintenance of the vegetation. Before acceptance, the plan must be signed by the participant, SCS technical representative, the soil conservation district, and the county ASCS committee representative.

4. Agricultural Conservation Program (ACP)

Long-Term Agreement (LTA) plans are multi-year conservation plans developed by the land owner or user with technical and cost-share assistance authorized under the Agricultural Conservation Program (ACP). The participant requests planning assistance and describes the conservation and/or environmental problem occurring on the farm. SCS helps the participant determine the resource management system and practices required to bring soil loss and water quality to acceptable standards for all, or a portion, of the farm.

5. Water Quality Incentives Project (WQIP) Plan

With SCS assistance, land owners must develop Water Quality Resource Management Plans (WQRMP) to meet ASCS program requirements for achieving source reductions of agricultural pollutants for water quality purposes. This resource management plan includes an assessment of the resources and management and structural measures needed to achieve those reductions on an entire tract or tracts owned or operated by the applicant within a specified (watershed) project area. The plan typically includes management practices such as nutrient, pest, and animal waste management, conservation tillage, irrigation water management, and strip cropping. The plan is reviewed and approved by SCS and the local Conservation District, is consistent with conservation compliance goals, and becomes the basis for 3- to 5-year contracts with operators.

6. Watershed Protection and Flood Prevention Act (P.L. 566) Land Treatment Watersheds

Long-term contracts (LTCs) for P.L. 566 use the same policy and procedures as do those prepared for the Great Plains Conservation Program (see below), except that the P.L. 566 LTCs cover only the land operated by the participant and the specific problems identified in the watershed work plan. The work plan contains a list of conservation practices that address, typically, cropland problems. Treatment may or may not achieve the resource base protection level, depending on the workplan objectives.

7. Great Plains Conservation Program (GPCP) Planning Principles

The GPCP Conservation Plan of Operations includes all the land in the participant's operating unit. The plan contains all the required practices, existing practices (if any) to be maintained, and new practices — some of which will be cost shared some will not. These new practices are scheduled for completion over a 3- to 10-year period. The plan, when signed by the contracting officer, becomes part of a legal and binding contract between the Federal Government and an individual farmer or rancher.

8. Wetland Reserve Program (WRP)

The Wetlands Reserve Program Plan of Operations is developed by the landowner (WRP applicant) with assistance from the Soil Conservation Service, Fish and Wildlife Service, and possibly others. The plan calls for protection, restoration, and management of wetlands that are entered in the WRP. This plan of operation must be signed by the participant, FWS representative, SCS district conservationist, local conservation district, and ASCS.

9. Water Bank Program

The Water Bank Program is designed to preserve and improve the major wetlands as habitat for migratory waterfowl and other wildlife in designated areas. The Soil Conservation Service assists the land user in developing a plan that reduces and conserves surface runoff, protects the soil from wind and water erosion, improves water quality, reduces flooding, promotes water management, and enhances the natural beauty of the landscape. Land owners sign 10-year, renewable agreements.

10. Integrated Farm Management Program

The Integrated Farm Management Program Option Plan is administered by ASCS with technical assistance provided primarily by SCS. The objective of the program is to improve and conserve soil and water on farms. Plans prescribe Resource Conservation Crops (RCC) rotations, tillage systems, soil conservation practices, nutrient management strategies, integrated pest management strategies, animal waste systems, and health and safety considerations. The 3- to 5-year, renewable contracts contain elements that address (a) the specific acreage and crop bases enrolled; (b) acreage and location of the RCC per year; and (c) scheduling of practices for implementation, improvement, and maintenance of the RCC.

11. Colorado River Salinity Control Program Plans

SCS helps applications for the Colorado River Basin Salinity Control Program develop salinity control plans for eligible land. The plan specifies the salinity reduction practices that are the most cost-effective for: (1) Reducing salt loading from a unit of land; (2) reducing erosion or seepage to a degree which significantly benefits salinity control; and (3) voluntarily replacing incidental fish and wildlife values foregone. The salinity control plan also includes a schedule of completion dates for installation of the salinity reduction practices and the specifications of such practices.

12. Wetlands Restoration/Mitigation Plans

These plans are developed, generally with the assistance of the Soil Conservation Service, to restore all of a converted wetland's functions and values or to mitigate the losses of wetland's functions and values caused by a conversion activity. These plans must be approved by the SCS and the Fish and Wildlife Service and be fully implemented within 12 months for a farmer to regain eligibility for USDA benefits.

13. Rural Clean Water Program (RCWP) Plans

This ten year experimental program, initiated in 1980, was designed to address agricultural non-point source pollutants for the improvement of water quality. There are 21 projects nationwide where site specific RCWP plans were developed to reduce agricultural pollutant loads to surface and ground waters using both structural and non-structural practices. No new plans are being developed and an evaluation of this program is underway.

14. Rural Abandoned Mine Program (RAMP) Plans

The RAMP Plan of Operation is developed by the landowner with assistance from SCS. The plan contains all the required practices necessary to stabilize the abandoned coal mined land to agricultural uses. These practices are scheduled for completion according to a specific, 5- to 10-year period. The plan, when signed by the contracting office, becomes a part of a legal and binding contract between the Federal Government and the landowner.

15. Stewardship Incentive Program

The Stewardship program encourages and assists owners of private forest land. The stewardship plan is an action-oriented, multidisciplinary document that includes landowner objectives, records the resource management decisions, and recommends resource practices. The plan considers fish and wildlife habitat, enhancement of threatened and endangered species, soil and water resources, wetlands, recreation and esthetics, and timber management and harvesting. The stewardship plan is developed by the Division of Forestry, however, existing Voluntary Conservation Plan (SCS) and Tree Farm Plans (American Forest Foundation) are acceptable stewardship plans.



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Statement of the

NATIONAL PORK PRODUCERS COUNCIL

Before the

Subcommittee on Environment, Credit, and Rural Development
of the

U.S. House of Representatives
Committee on Agriculture

on

H.R. 1440 --The Site-Specific Agricultural Resource Management Act
of 1993

April 20, 1993

Presented by: Jerry King
Chairman, Environmental Committee
National Pork Producers Council
Victoria, Illinois

National Headquarters
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The Other
White Meat.

Mr. Chairman and Members of the Subcommittee:

My name is Jerry King and I am a pork producer from Victoria, Illinois. My operation consists of 1160 acres of farmland that includes a 900 acre corn base and approximately 260 acres of pasture and timber. My family farrow-to-finish operation produces approximately 38,000 head of hogs per year. In addition to my farm management responsibilities, for the past two and a half years, I have been the Chairman of the National Pork Producers Council's Environmental Committee and a member of the NPPC's Executive Committee.

The National Pork Producers Council represents approximately 100,000 producers through 45 state affiliates. Our members account for more than 90-percent of this nation's commercial pork production. On behalf of the NPPC, I would like to congratulate you on introducing legislation that strikes at the heart of farmers' biggest frustration with government. Consistency and integration are important to farmers. Unfortunately, most government agricultural programs have lacked both of these values. H.R. 1440 attempts to return these values to the next generation of conservation and environmental management programs.

Mr. Chairman, one year ago, I testified before this Committee regarding the effectiveness of USDA programs in addressing water quality problems. In my opening remarks last year, I spoke of the need to integrate existing USDA conservation and water quality programs with any new nonpoint source provisions affecting agriculture. Furthermore, NPPC has maintained that the Soil Conservation Service (SCS) should be the lead agency in developing and implementing any new water quality provisions related to agriculture. Finally, pork producers have proposed that adoption of, and conformance with, a voluntary environmental management plan should provide a producer some assurances with regard to environmental liability. Today, I return to Washington to commend you for putting together a bill that accomplishes these three objectives.

The Management Challenge Facing Today's Agricultural Producer

The findings listed in Section 3 of H.R. 1440 reflect the management challenge facing today's producers. Raising pork today takes a far greater level of expertise than when my parents and grandparents were farming. Animal health, genetics, carcass quality, and environmental management are just a few of the issues within our industry that today's producers must understand if they hope to be competitive. Section 3(a)(2) references 15 programs under USDA's jurisdiction that require the development of an environmental or conservation related plan. A list of 15 plans may be startling to some, but as a producer, I know that even this list of programs understates the true challenge facing producers.

Environmental programs administered outside of the USDA and state

regulatory programs create a conflicting web of environmental regulations and programs that catch farmers coming and going. For example, USDA Conservation Compliance plans may not be consistent with state groundwater quality protection plans. The Environmental Protection Agency's new Coastal Zone Management Act program does incorporate conservation compliance plans, but may be at odds with current state livestock permitting programs. Finally, there are environmental challenges facing producers, such as odor, that need to be a part of any environmental management planning. This issue isn't currently being addressed within the government's focus on water quality, but every producer knows it must be a part of their plan.

The findings of the H.R. 1440 also speak to the need for long-range planning to promote practical and economically feasible solutions for producers. If regulations force me to make changes before I'm ready, my cost of compliance is going to be a lot higher. I may need to put in new animal manure containment structures, purchase additional equipment, or implement new practices on my farm that I have not had a chance to test before. I need a voluntary environmental management plan that lays out the changes I should be adopting over the next five years. This allows me to incorporate these changes into my farm's financial planning to ensure the changes are accomplished in the least-cost manner.

Simplifying the Federal government's environmental management planning will be a benefit to both producers and society. As producers work to improve food safety, productivity, and environmental quality the demand for intensified management will increase. If we can make it easier for producers to plan for the environmental changes, there is a greater chance of accomplishing our goal of environment quality.

NPPC's Recommendations

NPPC wholeheartedly supports H.R. 1440. The coordination of current and future environmental programs affecting agriculture is a prime concern for pork producers. The provisions of H.R. 1440 represent the best proposal, to date, for accomplishing this objective. While we support the overall goal of the legislation, NPPC would offer the following suggestions to make the bill more effective in achieving its mission:

Section 5(c)(3) & (4) - The bill sets a January 1, 1996 deadline for plans to be in place on agricultural land subject to more than one plan. Subsection 4 requires SCS give priority to establishing plans: 1) requested by land-users; and 2) in watersheds determined by the SCS to be environmentally sensitive. While laudable, these aggressive goals for drafting these plans may actually do a disservice to the agriculture community they are intended to serve. Agriculture is under intense scrutiny regarding the implementation and effectiveness of the conservation compliance provisions of the 1985 Food Security Act. It is imperative that conservation compliance plan

implementation remain the SCS's first priority at least until the December 31, 1994 deadline.

Another reason to extend the bill's timetable is to coincide with the development of new regulatory programs affecting agriculture. For example, the new Coastal Zone Management Act (CZMA) program calls for state program regulations to be developed by July 1995. Program implementation is to follow within two years. While the CZMA requirements may not affect a majority of our nation's agricultural producers, those in the Coastal Zone Management areas will need the assistance of the SCS to develop their management strategy. Adjusting H.R. 1440's timetable to conform with CZMA may still not provide the SCS enough time to meet the current demand for service. The extension of time, however, will at least give the agency the additional time it needs to make sure producer's plans incorporate as many of the existing program regulations as possible.

Section 5(c)(6)(A) - Coordination of environmental programs is perhaps more critical outside of USDA than within the agency. NPPC would encourage strengthening the language in this section to clearly direct other federal agencies to enter into agreements with USDA. Few agencies involved in natural resource planning will be willing to transfer funds and authority to USDA unless Congressional intent is established.

Section 5(e)(1) - Although it may be the assumption that site-specific plans would address watershed-based problems, this should be clearly stated in the law. An individual producer may need to control soil erosion, but within the surrounding community the larger concern may be pesticides in groundwater. A site-specific approach for that particular producer might be no-till farming. However, if the adoption of that system forces the producer to increase chemical usage to control weeds, the threat to groundwater has been increased. Thus, site-specific management plans must somehow be tempered with the environmental objectives for the surrounding watershed.

Section 5(e)(3) - Odor is an inherent characteristic in livestock production. It is imperative that odor issues be included in any natural resource management plan. NPPC urges that Subsection (3) be amended to include air resources. Pork producers are constantly searching for ways to minimize the odor from their operations that might affect their neighbors' quality of life. Producers must have the flexibility in their environmental management plan to use practices that control or reduce odor. For example, knifing liquid manure into the soil significantly reduces the odor from field application. If a producer has a conservation plan that calls for no-till, does knifing in nutrients constitute a violation of that plan? An agricultural resource management plan should allow producers the flexibility to address this type of issue.

New Roles for a New Agency

There has been a great deal of discussion in recent months about the reorganization of the U.S. Department of Agriculture. As Congress consider legislation to change the responsibilities of the Soil Conservation Service, there may be concern as to how these changes might affect any future reorganization. The proposals in H.R. 1440, however, should not be considered inconsistent with the goals of reorganization.

Although H.R. 1440 specifically references the Soil Conservation Service, the bill is basically about who will perform the functions of natural resource planning. The SCS has been moving in this direction for some time. SCS's self-prescribed mission to address Soil, Water, Air, Plants, and Animals, known as SWAPA within the Agency, is clear evidence of the agency's expertise for dealing with total resource planning.

Whether SCS becomes the Agricultural and Natural Resource Agency as some have suggested or a part of the Farm Services Agency as Secretary Espy has proposed, is irrelevant to this debate. The question we must address is who will perform the functions outlined in H.R. 1440? From agriculture's standpoint, the answer is easy. Producers have a working relationship with their local SCS and Agricultural Stabilization and Conservation Service (ASCS) officials. The county ASCS and SCS employees know the producers and the land in their counties. They are the people best suited for deciding the environmental management measures appropriate for a specific farm. They are also the people who can supply the technical assistance producers will need to effectively address tomorrow's environmental challenges.

Under any reorganization, the USDA must retain a strong environmental posture. The agency's field force will continue to play a critical role in transferring new environmental programs to producers. If the agency has the responsibility to integrate these programs, it won't matter how the reorganized USDA delivers service, natural resource program integration will be part of the agency's continuing mission.

Conclusion

The pork industry recognizes the role that we, as members of the agricultural community, must play in protecting our environment. We also know we must improve our environmental management and our efficiency if we hope to continue operating in the future. However, protecting the environment for today's society and for the benefit of future generations is something we cannot do alone.

As new programs and regulations are thrust upon agriculture, there must be a consistent, rationale approach to environmental management. Given the opportunity and the technical information, producers will voluntarily adopt long-term resource management plans to protect the environment. Today's piecemeal approach to environmental legislation, however, frustrates both

farmers and the general public. True progress toward a sound agricultural environment is thwarted by ever-changing and contradictory regulations aimed at solving a multitude of natural resource problems. H.R. 1440 represents our best chance to change this pattern. NPPC would like to thank you, the Chairman, and other sponsors of the bill, and offer our full support in securing passage of this vital legislation.

Wildlife Management Institute

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Statement of
Donald F. McKenzie, Resource Associate
Wildlife Management Institute

on

H.R. 1440, the Site-specific Agricultural Resource Management Act of 1993

before the

U.S. House of Representatives
Committee on Agriculture
Subcommittee on Environment, Credit and Rural Development

April 20, 1993

Mr. Chairman:

The Wildlife Management Institute (WMI) appreciates the opportunity to submit this testimony on the Site-specific Agricultural Resource Management Act of 1993. The Institute is a private, nonprofit scientific and educational organization staffed by professional natural resource managers. WMI has been dedicated to the restoration and improved management of wildlife and related natural resources since 1911.

WMI fully supports the concept of comprehensive farm planning to appropriately and simultaneously address agricultural and environmental needs on farmlands. The idea in H.R. 1440 that the Soil Conservation Service (SCS) should combine all U.S. Department of Agriculture (USDA) requirements for a farm into a single, site-specific comprehensive resource management plan is basically sound.

This bill is designed to provide relief to farmers, by simplifying the burden of their compliance with myriad environmental requirements. However, it makes no attempt to achieve a heightened level of conservation on agricultural lands. Instead, it inadvertently creates the potential to weaken conservation gains that already have been made. WMI tries to use every opportunity to gain a step forward for conservation; thus, this statement concludes by offering a proposal to build on the basic premise of this bill by placing it on a broader foundation of watershed conservation planning and ecosystem management.

Short of such substantial modification, WMI could support the main idea of single comprehensive plans, as well as some secondary aspects, such as targeting planning to specific environmentally sensitive watersheds and coordinating cost-sharing and incentive funds. However, we cannot support other elements as written, such as (1) possible delegation to SCS of authority to determine compliance and grant permits and exemptions for an array of environmental programs, (2) provision of liability protection to farmers, (3) lack of accountability for SCS to produce quality plans, (4) absence of minimum standards in the statute, and (5) potential weakening of established conservation requirements.

Cost-share and Incentive Funds

If interpreted literally, this bill applies only to plans *required* by USDA. As a result, most farms would not be affected, since most plans actually result from participation in *voluntary* cost-sharing or incentive programs such as the Conservation Reserve, Wetlands Reserve, Agricultural Conservation Program, Small Watershed Program, etc. Farmers always have the right not to participate in such programs if they do not like the conditions. Nonetheless, even if interpreted broadly, this bill would not affect as many farmers as it could and should.

WMI supports the coordination of cost-share and incentive opportunities among federal and state agencies, as well as non-governmental organizations. However, this bill could result in a dual system that would inhibit coordination of farm conservation efforts. H.R. 1440 requires that all requests for USDA cost-sharing "on agricultural land for which a single comprehensive plan is in effect" be made through SCS. WMI assumes, then, that requests from farmers regarding land *not* subject to a single plan would continue to be made through the Agricultural Stabilization and Conservation Service.

This scenario could be avoided by utilizing USDA cost-sharing and incentive programs to motivate additional farmers to seek a comprehensive plan. WMI recommends that a comprehensive resource management plan be made an eligibility requirement for any farmer who wishes to participate in any cost-share or incentive program.

Limited cost-share and incentive funds should be *targeted*, to most effectively meet the highest priority conservation objectives. WMI supports the provision to prioritize planning efforts based on specific environmentally sensitive watersheds, but more emphasis on targeting is needed. This bill should grant SCS the authority, in concurrence with the State Technical Committees (as mandated in the 1990 farm bill), to target appropriate assistance to priority conservation areas by considering all requests for assistance in the context of a larger, ecologically based watershed plan.

As written, this bill would require that the entire plan be rewritten if a farmer signs up for an additional cost-share or incentive program that carries new or more stringent requirements. Some revision of the plan is logical. However, WMI recommends that H.R. 1440 include language to ensure that the comprehensive plans always incorporate the *most stringent* requirements of all the plans consolidated, rather than subordinate stringent requirements to looser ones. Unreconciled conflicts between requirements should be referred to the State Technical Committees.

Over time, all federal agriculture subsidies, including deficiency payments, disaster payments, loan guarantees, etc., probably will be tied to conservation planning and implementation. That step would raise the ideas in this bill to a much higher plane of effectiveness and impact.

Agreements with Other Agencies

WMI supports this bill's attempt to foster a higher degree of coordination of conservation requirements and initiatives among federal and state agencies. SCS undoubtedly is the logical entity to lead the technical planning efforts. It is not necessary, however, for SCS to assume legal responsibility for determining compliance or granting permits and waivers merely in order for comprehensive planning to be effective. SCS should be expected, though, to assist the other agencies in enforcing the requirements in the plans.

SCS leaders and staff continually insist that the agency has no desire to assume regulatory or enforcement roles. As recently as last month, a top SCS administrator testified before the House Agriculture Appropriations Subcommittee that the agency did not need to strictly enforce Swampbuster. SCS acted on that attitude less than a year ago attempting drastic changes in Swampbuster regulations, to weaken that program.

As a result of this attitude and SCS's track record, WMI does *not* support delegation to SCS of any authorities now legally vested in other resource agencies. Section 5(c)(6)(C) should be amended by adding a period after the word "assistance" and striking everything after it.

WMI is convinced that other federal and state agencies would eagerly cooperate with SCS to fully incorporate environmental requirements into the comprehensive plans, if the above clause and the liability protection provision were deleted.

Standards and Criteria

The standards and criteria vital to the effectiveness of H.R. 1440. A set of sound standards could allow the ideas in this bill to flourish and provide meaningful long-term benefits to agriculture, society and the environment. Weak standards that do not challenge the status quo would, at best, provide only short-term benefits to agriculture, while perpetuating negative impacts to natural resources.

This bill offers a prime opportunity for American agriculture to move proactively beyond the status quo to strive for long-term conservation accountability. By taking such a step, the agriculture community would demonstrate a heightened level of environmental responsibility that likely would pay tremendous benefits as the very real possibility of drastic cuts in public subsidies is contemplated.

In WMI's opinion, it is insufficient to rely merely on implicit existing standards. Nationwide minimum nondegradation standards ought to be incorporated in broad, but clear terms into the bill, including elements of soil erosion reduction, wetlands protection, and water quality restoration and maintenance. Clear language also needs to be added to ensure that, under no circumstances, will any standards and criteria be less protective than any existing ones.

WMI supports the provision that directs the Secretary to consult with other federal and state agencies, as well as the State Technical Committees, in formulating precise standards and criteria. We infer from this provision that states, through their Technical Committees, may help set standards and criteria that vary from those outlined in the statute.

We strongly support the concept of tailoring conservation activities to ecological units such as watersheds. However, it should be clarified in the bill that states would only have the leeway to craft *more restrictive* standards than currently exist or than framed by the statute.

It also is important that *plans* be designed to meet all other state, local and relevant program-specific restrictions, rather than to subordinate any of these to weaker national standards. Therefore, WMI recommends that Section 5(e) be amended by adding at the end of line 3 the phrase: "...all state, local and relevant program-specific restrictions, and..." In addition, in the first sentence of Section 5(e), the word "using" needs to be replaced with "to meet", to indicate more clearly and specifically that the plans shall be designed to achieve the standards.

While the requirement in Section 5(f)(2) that SCS revise the plans to reflect any changes in conservation requirements is appropriate, care should be taken to ensure that this provision does not become a burden on SCS that subsequently can be used as a strategic obstacle to developing and implementing additional national environmental protection measures.

Liability Protection

The liability protection clause places a tremendous performance burden on SCS. All the worthwhile progress being attempted with this bill hinges on the quality of the comprehensive plans. Creation of inadequate plans would render this bill, as well as existing and future resource protection authorities, ineffective. No single agency in the federal government could bear such a burden effectively.

According to the liability clause, the *comprehensive plan* replaces the *requirements and standards* as the benchmark for judging all future activities. If farmers are given bad advice by SCS, no recourse is available to protect the resources, because neither the farmer nor SCS would be held accountable.

This situation of uncertain accountability is not acceptable. The minimum acceptable benchmark is the requirements and standards relating to the resources of concern. SCS must be held accountable to provide quality assistance, to ensure its plans will meet the minimum requirements and standards. If the SCS provides inadequate advice, that advice--not the farmers' obligations--must be changed. Similarly, a farmer implementing a poor plan in good faith should not be punished, but still should be held responsible to meet his obligations.

In WMI's opinion, the convenience of having a single comprehensive plan should be sufficient incentive for farmers to participate in this planning process. The liability provision thus is unnecessary. We recommend that Section 5(h) be deleted from the bill.

If the liability clause is retained, WMI recommends that:

1. It clarify whether "all conservation and environmental requirements covered by the plan" are *resource- or program-specific*. That is, if a plan addresses wetlands cursorily, does that mean all Section 404, Swampbuster, WRP and state wetland requirements are automatically covered and the farmer relieved of all liability with respect to wetland impacts?
2. SCS be prohibited from addressing a resource or requirement *at all* in the plan if that resource protection measure cannot be dealt with adequately.
3. To clarify the intent of the clause, the wording be amended to read: "... or who is properly implementing *in good faith*, the comprehensive resource management plan developed for *that* agricultural land...."

SCS Capability

WMI believes that the SCS ought to be a leading force in the implementation of essentially all environmental initiatives on private land. SCS has an unmatched technical infrastructure that has contact with and influence over almost all private agricultural land in the country. Unfortunately, this vast potential to achieve sound conservation on the farming landscape has not been realized.

The consequent dilemma is how to get SCS to accept and demonstrate accountability, resolve and commitment. WMI's opinion is that any new responsibility placed on the SCS should be accompanied by a rigid standard of accountability as well as additional resources to accomplish the task.

In any discipline, few resource management professionals, including the SCS's District Conservationists, would be capable of producing comprehensive plans that would satisfy all environmental requirements. Therefore, this bill needs to direct that a *team approach* will be utilized to produce adequate plans. SCS should be required to seek and obtain planning, implementation and monitoring assistance from other state and federal resource agencies, including the State Technical Committees. Although SCS still would actually write the individual plans, other agencies' expertise, manpower and concurrence are necessary at all other levels, to provide guidance on other natural resource issues.

Because accountability is an issue and creation of the plans would be such a burden, outside oversight, is a necessity. WMI recommends that an administrative appeal mechanism be added to facilitate outside oversight on the quality of the plans and compliance determinations. Furthermore, a clause needs to be added to provide that, if any plan is demonstrated to be inadequate to meet the standards and criteria, that plan must be corrected immediately.

This new conservation effort will be most effectively implemented if it is phased in at a pace that does not overwhelm and destabilize the infrastructure. This bill would add an unbearable burden to SCS's already excessive workload, especially in the time frames given. At least a year should be provided to

devise sound regulations that would guide this effort to achieve its full potential. The 1996 deadline for full implementation also should be extended, to provide up to a 10-year phase-in period.

Watershed Planning as the Foundation

H.R. 1440 begins with a good idea--a single site-specific resource conservation plan for farms. The bill then attempts to take that idea a couple steps further by providing increased authority and responsibility to SCS, and comprehensive liability protection to farmers. WMI wishes to offer an alternative scenario for expanding on the basic idea to promote true watershed-level planning and conservation. A truly comprehensive approach to farm planning must incorporate broader considerations, such as larger, ecologically based geographic units, as well as a wider spectrum of societal concerns and a long-term vision.

The vision of H.R. 1440 is limited to individual farms, independent of larger and more important considerations about the watershed or ecosystem of which each farm is a component. Section 5(e)(5) of the bill states that plans are required to promote "efficient long-term production of food and fiber...." A fully comprehensive conservation initiative would interpret this standard with due consideration to the watershed, the ecosystem and the environment of the nation as a whole, rather than just at the level of individual farms. Perspectives on how to manage specific tracts would change dramatically at different scales of consideration.

WMI suggests that the concept of watershed planning, as theoretically embodied in SCS's Small Watershed Protection and Flood Prevention Program (PL-566), should provide the foundation upon which individual farm plans are based. Watersheds are the most practical basis known for approaching conservation planning and implementation.

While the reality of the PL-566 program has fallen far short of this potential, H.R. 1440 could reinvigorate the sound concept, by wrapping up the good idea of comprehensive farm plans in a bigger package of long-term watershed conservation planning. In this way, larger needs and goals of society could be addressed effectively on such topics as sustainable agriculture, grazing and forestry; soil erosion; water quality and quantity; fish and wildlife resources; and restoration of watersheds to fully functioning systems that reduce the need for structural remedies.

The watershed-based comprehensive conservation plans themselves should be based on due consideration of the ecosystem in which the watershed is located, and should deemphasize structural remedies. The watershed plans would set objectives and goals to guide subsequent individual farm planning.

To produce sound watershed conservation plans, the existing watershed associations authorized by PL-566 should be reformulated. They should be comprised of 50 percent local farmers and 50 percent natural resource managers, conservationists and other local citizens.

Only with such a logical step-down of resource and societal needs, from the regional and national levels to the individual farm, can comprehensive resource conservation truly be accomplished to ensure the simultaneous sustainability of agriculture and natural resources. Such an approach would put American agriculture at the forefront of efforts to accommodate sustainable use of resources, ecosystem management and biological diversity in a practical way on the landscape.

WMI recommends the following steps to promote such a watershed planning approach:

1. Amend Section 5(e) of H.R. 1440 by adding a new paragraph (7): "Be specifically designed to contribute to the extent practicable to achieving the goals and objectives stated in the comprehensive watershed plan."
2. Provide SCS with the authority, in concurrence with the State Technical Committees, to coordinate and target *all* USDA incentives and cost-sharing that are intended to influence the use of agricultural land, to accomplish the watershed objectives most effectively.

3. Amend the necessary statutes to provide that no land in a watershed would be eligible for any USDA cost-sharing or incentive programs until a comprehensive watershed conservation plan has been completed.
4. Require that farmers are ineligible for federal incentives, cost-share or commodity support payments until a single conservation plan has been produced for that farm.

WMI realizes that such an alternative scenario is no small consideration. However, we are convinced that the probable benefits of such an ecologically based watershed-level conservation approach would pay large dividends to agriculture, society and the environment for the extra work invested to implement it. WMI is prepared to assist in the formulation of such a program.

Mr. Chairman, thank you for the opportunity to present these views on H.R. 1440 and farm conservation planning.



SITE-SPECIFIC AGRICULTURAL RESOURCE MANAGEMENT ACT OF 1993

WEDNESDAY, APRIL 21, 1993

**HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENVIRONMENT, CREDIT,
AND RURAL DEVELOPMENT,
COMMITTEE ON AGRICULTURE,
Washington, DC.**

The subcommittee met, pursuant to call, at 10:10 a.m., in room 1302, Longworth House Office Building, Hon. Glenn English (chairman of the subcommittee) presiding.

Present: Representatives Long, Holden, McKinney, Penny, Peterson, Gunderson, Allard, Barrett, and Ewing.

Staff present: John E. Hogan, minority counsel; Glenda L. Temple, clerk; Benjamin I. Baker, James E. McDonald, Joe Dugan, and David Ebersole.

OPENING STATEMENT OF HON. GLENN ENGLISH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OKLAHOMA

Mr. ENGLISH. The hearing will come to order.

Today we continue our hearing with regard to H.R. 1440, the Site-Specific Agricultural Resource Management Act of 1993. This is the third in a series of hearings that we are having, and I anticipate it will be our last hearing on this measure. We have received some very fine testimony and some good suggestions and I expect that we will even receive more today. I am looking forward to the testimony.

Does anyone have any opening statements they would care to make before today's hearing? Mr. Allard.

OPENING STATEMENT OF HON. WAYNE ALLARD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Mr. ALLARD. Mr. Chairman, just for the record, and I will try to get a memo to you on this, but we had some discussion yesterday about the appeals process and I would refer you back to Dean Kleckner's testimony that recommends we have an appeals board outside the SCS to adjudicate complaints between the producers and SCS.

What I will suggest is perhaps an area we might look at is seeing the ASCS committee in the States as a good appeals agency perhaps because they are already run by appointed individuals and might tend to be more responsive based on their appointed status.

I just leave that suggestion with the chairman.

Mr. ENGLISH. I appreciate that. Anyone else?

If not, we will begin with our first panel of witnesses. We have Mr. Dean Kleckner, president of the American Farm Bureau Federation; Ms. Barbara Webb, assistant director of government relations, National Farmers Union, also on behalf of the National Farmers Organization; Mr. Ray Chancey, the national office director of the American Agriculture Movement; and Mr. Leroy Watson, assistant legislative director of the National Grange.

So if each of you would take your seats and we will talk with you, Mr. Kleckner first, if you would give us your testimony.

I want to say, today we have quite a number of witnesses. If you would be kind enough to summarize your written testimony, without objection, your complete written testimony will be made part of the record.

STATEMENT OF DEAN R. KLECKNER, PRESIDENT, AMERICAN FARM BUREAU FEDERATION

Mr. KLECKNER. Thank you, Mr. Chairman. I was going to ask for this statement to be made part of the record. I am Dean Kleckner, president of the American Farm Bureau Federation and an Iowa farmer who grows soybeans and raises hogs. I appreciate the opportunity to speak today on our behalf on this important topic.

Site-specific soil and water conservation is of great importance and interest to our 4 million-plus member families and we appreciate your efforts to help consolidate the paperwork that we all face who are trying to be good stewards of our natural resources.

It is a great and complex issue and it is a priority of ours. Over the last year, we note that Congressman Oberstar is drafting legislation to amend the Clean Water Act to make mandatory the Federal water plans site-specific. We hope that farmers don't end up with two conflicting plans, one for water quality and one for soil conservation.

Mr. Chairman, as you know and the members of the committee know, there is a tremendous amount of erosion control activity now on farms and ranches across the country. We are reducing erosion and increasing efficiency of our chemical use. In that regard, I would like to point out the graph on the cover of my statement which shows the significant upward trend in implementation and the progress over the past couple years. I believe we are on target.

In addition to that, soil erosion has been reduced by 90 percent or more on the land that is in the CRP. Our crop protection chemical usage is down by 20 percent from 1982. That is true on my farm, also, in Iowa, incidentally. The corn nitrogen fertilizer use efficiency is up 14 percent since 1980. Soil erosion on 135 million acres of highly erodible land will be reduced by 50 to 60 percent over levels existing in 1990 when the conservation plans went into effect.

But it should be noted—I don't think this is noted or known often enough—that voluntary erosion control efforts before 1990 had already produced 2.75 times the erosion control as all compliance with erosion plans and conservation compliance will. Conservation tillage, the umbrella term that covers multiple-till, no-till, ridge-till and probably other tills out there now—farmers are very innova-

tive, that has increased steadily and now represents 31 percent or more of all planted acres.

No-till soybean acreage quadrupled between 1989 and 1992 and it will take another big jump. Farmers are interested in crop residue management. There were 4,000 farmers that attended four meetings in the Midwest this January to hear the latest information on crop residue management for their reduced tillage options they are moving into.

I think conservation compliance was on their minds, but I think they also attended because these systems make economic sense. They were interested in attending and listening to their peers saying what their experience has been. Over 800 farmers jammed the hotel in Indianapolis to find the latest on no-till. In fact, they had to turn 200 away. They didn't have room for them.

Paul Johnson, a farmer and a former State legislator in Iowa, said, and I agree with this: "Education, not regulation caused change."

President Clinton has recognized farmers and ranchers are the best stewards of the land and I am pleased to note that he said that the administration would ensure the environmental decisions are based on sound scientific data, not politics, so that America's farmers do not carry the cost of environmental protection alone.

Conservation compliance is having a big effect on our members, and the graph—I refer to the graph on the front cover again—shows that we are on target. Now, we projected last year we would be at 57.6 percent compliance in 1993 and the SCS said we are ahead of that, 58 percent of the plans were fully implemented. So we are on target.

We recognize the need for greater soil conservation, but we think three things should happen to meet these standards by 1995. We think farmers will need some additional plan flexibility, some increased financial cost-share assistance, and additional educational and technical assistance. The progress we are making shows that mandatory and punitive measures are not necessary.

That leads me to H.R. 1440. This bill, Congress and the farmers are expecting near miracles from SCS in 1994 in terms of technical assistance to finish the job of conservation compliance. We frankly have a concern that to burden SCS with an additional load of developing single comprehensive plans for agricultural land users during 1994 is simply asking more than is humanly possible for them in the time allotted. They are great people but they have a nearly impossible job.

Farmers are making tremendous strides in improving soil and water quality via conservation compliance, soil and water quality, but it may take a decade to actually prove the changes in water quality that all their efforts are producing.

Example, in February this year, Dr. Hallberg of the Iowa Department of Natural Resources told an agricultural water quality researchers group in St. Paul, "We need time. Even if we could do it, to implement all known BMP's today, we would still be a decade away from proving changes in water quality."

Dr. Hallberg should know. I am mentioning Big Spring Basin in northeast Iowa. That is in Mr. Nussle's district in northeast Iowa. Dr. Hallberg has been studying this for a decade and he said that

average nitrogen fertilizer use has gone down 30 percent from 1981 to 1990 from 174 pounds to 120 pounds per acre; corn yields went up 17 bushels from 128 to 145 in that same timeframe.

During most of that time, nitrate concentrations in the Big Spring area trended downward, coinciding with reduced nitrogen fertilizer usage. Then we had the dry years out there in 1987 and 1988—I remember this well—through 1989 actually, 3 years, that held the nitrates in the soil profile.

In 1990 and 1991, the rains came and nitrate coming out of Big Spring is higher than it has ever been. So, Mr. Chairman, we think we will need those 10 years to really understand the impact of conservation compliance. We are just not going to be able to prove it overnight.

Another concern that we have of H.R. 1440 is that it requires the Secretary of Agriculture to issue regulations within 180 days of its passage. This is too fast to do a good job. It probably wastes some resources and we need to get it as close to right the first time as we can. We believe 1 year's time would be better, more appropriate than 6 months.

We strongly support the idea of SCS being the lead agency in the conservation activities affecting agriculture, the most technically qualified people to develop the plans and to determine compliance work for SCS.

Unfortunately, having SCS do both jobs will be perceived as improper by some people. To strengthen the system, our members support the establishment of an impartial appeals process to resolve disputes between producers and SCS regarding the application of conservation compliance provisions. We don't think SCS should be required to be both an enforcer and a judge. That was mentioned in the earlier comments.

We are also concerned that forestry is not specifically included within the definition of agricultural land.

I want to close by citing Pepin County, Wisconsin. Farmers in selected townships in Pepin County were reported to have stood in line 20 deep to register their land into a conservation credit program. They got a \$3 per acre reduction in property tax. Then they created conservation plans for their entire acreage. Where no credit was offered the conservation plans remained stable for the 4 years.

But over the same period where they offered the credit, land under conservation plans doubled. As a result, 70 percent of the erodible lands in Pepin County, Wisconsin have conservation plans in place.

It has only been tried in a few other places that I am aware of. I have heard of a few other places. We believe it is more attractive in getting participants than conservation compliance under the farm bill. It can be used on any land, not just highly erodible land.

It wasn't all highly erodible land in Pepin County, but they had to develop a plan for the whole farm. This allows farmers to choose the practices that best fit their operations. They are not locked into a long-term agreement that prevents alternative uses or management practices. They don't lose previous benefits if they drop out of the program. And finally, most importantly, it is controlled locally, by the people directly affected and concerned.

It was interesting for all of us to find that nearly three of four farmers in Pepin County said that erosion was not hurting their individual operations. Three out of four said it wasn't hurting. Yet, 70 percent agreed to participate in the conservation credit program. They found ways to use traditional farm practices like contouring, strip cropping, and rotation to reduce soil erosion below acceptable levels.

We think this indicates that it can save large amounts of staff time and money and can be adapted to solving water quality problems as well.

Mr. Chairman, our members believe that appropriate tax incentives to voluntary programs will achieve far more at far less cost than anything we have attempted yet.

We think Pepin County's idea could be applied in every county at \$3 per acre per year. That is what they were crediting. On the Nation's 400 million acres of cropland, it would take 100 years to spend the same amount the Federal Government has already spent to clean up point sources of pollution over the last 20 years.

Rewarding conservation improvements over the long term with either property tax or income tax credits is good investment in our future.

Concluding, Mr. Chairman, let me emphasize two points. The first is that your bill contains many positive features and we hope the subcommittee will continue to work on it; and second, I hope you will continue to support a voluntary incentive based educational conservation effort. It is the road to success.

I thank you for the opportunity to be here today.

[The prepared statement of Mr. Kleckner appears at the conclusion of the hearing]

Mr. ENGLISH. Thank you.

Ms. Webb.

**STATEMENT OF BARBARA G. WEBB, ASSISTANT DIRECTOR,
GOVERNMENT RELATIONS, NATIONAL FARMERS UNION,
ALSO ON BEHALF OF THE NATIONAL FARMERS ORGANIZATION**

Ms. WEBB. Thank you, Mr. Chairman. I will be very brief.

In reviewing your bill at the National Farmers Union and looking at the policy statements of National Farmers Union and National Farmers Organization, I was taken very quickly by the fact that it is almost as if our organization could have written this bill. It almost mirrors the policy approved by our delegates at our national convention.

We are very, very supportive of H.R. 1440. We like some components of it particularly. The fact that it is site-specific, a voluntary program, we like the one-stop shop approach, the reduction of paperwork, bureaucracy, and confusion, which is what we hear is needed out in the hinterlands from our members and what they complain the most about to us and ask us to work on. So we particularly like those features as well as the flexibility features that are offered in the bill to allow farmers working with SCS to consider a variety of alternatives on land units in order to comply with conservation and environmental concerns.

We wholeheartedly endorse the liability protection provision in section 5(h) which is provided for agricultural land users who complete a resource management plan and fulfill their part of the bargain by conscientiously carrying it forward whether or not the plan meets its intended conservation or environmental goals.

We have a few questions, some may have been answered in previous hearings, that I would like to just bring to your attention. One is that the bill makes reference to plans being developed for land units, but there is no definition of what a land unit is. We would feel much more comfortable with you, Mr. Chairman, coming up with a definition rather than leaving it to regulators to do so and ask that you consider doing that.

Second, we have a very strong policy, both in NFU and NFO, in supporting the ASCS county committees. We have a question on how they will be involved in this management scheme.

Third, how might the impact of H.R. 1440 affect efforts to achieve conservation compliance by 1995, which I know that a number of other witnesses have brought to your attention.

We also know that there is an impending reorganization of USDA which is supposedly going to merge this agency with some of the other agencies within the Department. We just wonder how this is going to fit in that scheme.

We hope that because this bill is introduced and you have exercised such foresight in doing so, that this bill can be a priority issue in reorganization and will focus the appropriate attention to the need for adequate staff and funding to meet its objectives. In other words, we think that the introduction of this bill prior to the reorganization is very good because it, hopefully, will be a focus of attention in reorganization.

As a matter of fact, Secretary Espy on March 22, in a speech to the North American Wildlife and Natural Resources Conference, made reference to the fact that one of the items that he thinks is very important in reorganizing USDA is to improve the coordination of key programs and improve the visibility of the Department in dealing with critical agricultural issues. One area in which this coordination and visibility is critical is in the natural resources and environmental area.

He continues by saying that cooperation and coordination with USDA's sister agencies in the Department of the Interior and EPA is essential if improvements in conservation and land stewardship are to occur. It is inconceivable to me, the Secretary said, that different agencies of the Federal Government can operate on the basis of different policies in dealing with common sense natural resources problems. It is inappropriate, it is inefficient, it sends the wrong message to the people we serve as stewards of their natural resources, Mr. Espy said.

So he has at last indicated he has some commitment to this type of approach, hopefully, and we hope this bill will be something he takes a good look at in the reorganization process.

We also, of course, are hopeful that through the appropriations process, that adequate funding will be provided for appropriate training so SCS personnel can effectively prepare and review the plans which will incorporate a variety of resource management

components beyond soil conservation and other items that SCS is used to dealing with.

We would also encourage that the bill have language in it that would require that the format of the plan be fairly simple and easily understood. We just have some concern that we don't want to see the situation be worse than it is now because of the amount of paperwork that would be required, even though it is just one plan.

We would also encourage you, Mr. English, to look at the possibility of perhaps including a section in the bill which would expand the jurisdiction of the federally matched State mediation programs beyond the credit area, so that conservation and environmental compliance problems could be included as topics for mediation.

I mention that in particular because of the fact that the Oklahoma Farmers Union has just taken over the contract to run the mediation program in Oklahoma and this is one area that a number of producers have asked them to become involved in. They are unable to do so or feel that they are unable to do so because of the way the language in the mediation law currently reads. You attempted to do this in your young farmer bill but we encourage putting that in this bill perhaps, also.

In general, we are supportive of the bill. We are looking forward to working with you as you develop it further. We appreciate your doing this and appreciate the opportunity to comment.

[The prepared statement of Ms. Webb appears at the conclusion of the hearing.]

Mr. ENGLISH. Thank you.

Mr. Chancey.

**STATEMENT OF T. RAY CHANCEY, NATIONAL OFFICE
DIRECTOR, AMERICAN AGRICULTURE MOVEMENT, INC.**

Mr. CHANCEY. Thank you. I am Ray Chancey and I am a small family farmer from Dayton, Texas, and I am here in Washington as the national office director for the American Agriculture Movement. I am glad to be here to have the opportunity to comment on this bill.

We think it is an exceptional step, Mr. Chairman, and we are very appreciative this committee has taken the time to address a problem that farmers have had to deal with for many years and will continue to have to deal with.

We realize it is a monumental undertaking and I have heard in previous hearings that it is perhaps not all that you would want it to be. We appreciate that sentiment also because it is not all we would like it to be. But we realize it is a first step.

Farmers understand conservation and environmental practices, probably more so than any other segment of our society. A lot of people's idea of conservation is not throwing garbage out of their car as they speed to work down the freeways.

For farmers, it is much more than that. We produce this Nation's food. We feed, shelter, and clothe people and we understand conservation. We eat the food that we produce, but before that, we till the soil, smell the food, we smell the chemicals that go into the ground, our families are there. So we are very concerned about conservation and environmental issues. We have to be.

But in these days, farmers have a lot more than just conservation and environmental practices to be concerned about. I am not telling any members of this committee anything, but farmers have a tremendous amount of paperwork to do before they can even plow the first soil.

We have to go to the SCS, the ASCS, FmHA, other agencies of the Government, to be able to make sure we have all the proper forms and permits in order to be able to fund our farming operations. We have a tremendous amount of things to do before we can get out there to do the farming. We can't be just concerned with compliance with these programs.

We have almost come to the point in our society where we have to be educated almost like a stockbroker. We have to know what the stock market is. We have to almost be lawyers in order to be able to interpret laws and regulations affiliated with farming. It is a difficult task. Certainly something that you appreciate.

Mr. Chairman, I know that you have spoken on this many times. We do appreciate that.

We have a lot to consider. But we also are mandated the responsibility for compliance with these regulations that have to do with soil conservation, water, environmental laws, and once we have determined that we have the ability to farm, then we have to determine if we are going to be able to farm because of the conservation and environmental concerns.

These are valid concerns and farmers are concerned about these as I stated earlier. But sometimes these plans are cumbersome and they make farming activities very difficult and almost in every case more expensive. Farmers can't afford any additional expense when it comes to implementing national goals.

There are about 15, currently about 15 different conservation plans that we have to—may have to comply with. Some comply with more than others. So we have to go to SCS, generally, to figure out how we are going to come into compliance with these plans. This is where the problem lies, and that this bill addresses as we see it, because farmers a lot of times don't know which agency to go to and a lot of times the Government agencies themselves don't know who has jurisdiction over certain parts of the environmental conservation plans.

On some occasions at least, farmers have been told that they can go ahead and farm. Permits and applications are given and plans only to find out they have inadvertently become in violation of some other Federal or State agency plan.

So it is a compounding problem. Farmers don't know which law to break a lot of times because we have conflicting laws.

To illustrate the problem that can arise when different agencies of the Government don't communicate adequately and how farmers can be caught in the middle, I have included in my written testimony an example, an experience of one of our members from Missouri, Mr. Allen Moseley.

The reason I included this was, one of many I could have, but it goes to the heart of the very problem that we have. The story is Mr. Moseley wanted to build a levy to prevent occasional flooding on his land. He got permission from an SCS office. When he started building, he was hit by the Corps of Engineers, EPA, the Fish and

Wildlife Service, and Missouri Department of Conservation and he ended up in litigation over the thing supposedly in violation of wetlands conservation law.

The short of it is that he won his case in court, but it took a lot of time, a lot of stress. The man told me that he just almost lost his wife over it and it caused some problems that he needn't have faced and some \$65,000 in legal fees that he still hasn't paid back. He is a farmer, he doesn't have that kind of money. But he won the case.

It shows if there had been proper implementation of communication that this bill sets in motion, to get these different agencies to at least talk about it so the farmer is not caught in the middle anymore, of course, Mr. Moseley would have been much better off and all farmers are going to be much better off.

So it is our position, the American Agriculture Movement—it is our position that this bill is a beneficial step for farmers. It lays the groundwork for better communication between the different agencies that deal with farmers, conservation, and environmental issues.

We have questions and concerns and some suggestions and I will be very brief in that. We also would like to see a definition of the term "land unit" as it is mentioned many times in the bill. So we would like to see a definition of that.

Even the best of plans are sometimes flawed and personalities can get involved, so we would like to see an appeals process specified. I know you have talked about that.

Under section 5(d), the "Criteria for Comprehensive Resource Management Plans," we would like to see the term "agriculture land user" included in the planning process. And we could see you adding on page 8, line 25, the words "and the agricultural land user" to accomplish that purpose.

Under section 5(e), "Requirements for Individual Plans," we see that parts 4 and 6 address costs incurred by these plans. Is it your intention to make sure farmers are funded to help implement these conservation environmental plans which are national goals? And where will the money come from. We would like to see some assurances on that.

The liability portion of H.R. 1440—this is something I would really like to stress—is by far the single biggest plus we can see to this bill. Farmers for too long have been caught in the middle, and as in Mr. Moseley's case, he had to fund \$65,000 in legal fees to prove a legal point that he was right in the first place.

This only addresses current USDA regulations. If we had a wish list, we would like to see something that encompasses other agencies, liability protection against the EPA, against U.S. Fish and Wildlife. Farmers are trying to comply, as Mr. Kleckner shows in his testimony. There are a large number of people voluntarily complying already.

Farmers want to do this. It is our livelihood. So we are willing, able, and wanting to do what is right, but we don't want to be caught in the middle when it comes to bickering between different agencies.

That concludes my testimony. Thank you for the opportunity.

[The prepared statement of Mr. Chancey appears at the conclusion of the hearing.]

Mr. ENGLISH. Thank you very much.

Mr. Watson.

STATEMENT OF LEROY WATSON, ASSISTANT LEGISLATIVE DIRECTOR, NATIONAL GRANGE

Mr. WATSON. Thank you, Mr. Chairman. I am Leroy Watson, assistant legislative director with the National Grange here in Washington, DC.

The grange strongly supports the adoption of H.R. 1440, the "Site-Specific Agricultural Resource Management Act of 1993." H.R. 1440 reflects practical implications in the changing circumstances of farm resource management. Over the past decade, our society has come to better recognize the importance of resource stewardship in the safe and profitable production of food and fiber.

At the same time, we have become equally cognizant of the fact that effective resource stewardship in producing food and fiber is possible only when farmers, as resource managers, have the proper tools and information with which to make rational and informed decisions. This bill will guarantee that the U.S. Department of Agriculture will be a valuable resource for farmers to call upon as part of their management program.

However, we believe that there are at least three important issues that should be addressed in this bill either as amendments to the legislation or perhaps as part of the committee's report language before final passage.

First, the legislation requires that resource conservation planning mandates and programs within the USDA be centralized in the Soil Conservation Service in order to provide for "one-stop shopping" for farmers who are seeking assistance in developing site-specific integrated resource management plans.

However, the legislation makes participation of the Federal and State agencies that are outside the USDA a voluntary election on their part. We believe that stronger language is necessary in order to provide that Federal and State agencies outside the USDA will work to incorporate any conservation or environmental requirements they administer into the unified site-specific plans that are envisioned by H.R. 1440.

The language in sections 5(c)(6) and 5(c)(7) that provides that other agencies to enter into agreements with the Soil Conservation Service could be changed to "shall." Alternatively, outside Federal agencies could maintain discretion to enter into agreements with the USDA, but could then be required to file a public statement of explanation on a periodic basis with the Secretary of Agriculture and the House and Senate Agriculture Committees regarding the reasons why they are not participating in the USDA's programs.

Finally, as an alternative, the report language to H.R. 1440 should specifically authorize the USDA's employees to advise farmers about the requirements and mandates under non-USDA programs, even if those other agency programs are not incorporated into the USDA's "one-stop shopping" service.

Second, this legislation should specifically provide that public notice and comment provisions of the Administrative Procedures Act

will apply to multiprogram and multiagency regulatory guidance material, as envisioned by sections 5(d) and 5(e) of H.R. 1440.

We are particularly concerned that we do not repeat the problem that arose with the Federal Manual for the Delineation of Wetlands. My written testimony summarizes some of those problems.

Basically the problems with the wetlands manual was, like H.R. 1440. A controversy arose when the Environmental Protection Agency and the U.S. Army Corps of Engineers refused to allow the changes in the Federal Manual to go through the APA's publication, notice, and public comment process. These agencies argued that products like the Federal Manual did not represent new regulation. They represented only the interpretations of the underlying regulations that were properly adopted by each of the participating Federal agencies. As a result, they claimed that the changes that were made to the Federal Manual, or other operating procedures, were just interpretations of existing regulations and not changes to any specific regulation.

The National Grange and other concerned organizations saw the situation quite differently. We interpreted the practical and legal implications of these multiagency, joint operating procedures far more broadly than the EPA or Corps of Engineers. We argued that the sum of the various agency regulatory policies incorporated into the Federal Manual was greater than its parts and constituted new regulatory burdens on farmers that triggered the APA's procedural protections.

The agencies turned deaf ears to our pleas for public participation in the formulation of the Federal Manual.

Fortunately, many of our friends in Congress, particularly those on the Appropriation Committees, recognized the problem and included provisions to deny the expenditure of Federal funds for enforcing any Federal Manual that had not first been opened to public notice and comment. Two years ago, these Federal agencies threw in the towel and provided for public notice and comment on all future revised Federal Manuals.

This subcommittee should make it explicitly clear, in the legislation or report language, to the USDA and other participating agencies that the USDA's final operating procedures, including development of any criteria, standards, or factors that are to be used in evaluating a farmer's compliance, are subject to the procedural protections of the Administrative Procedures Act.

The National Grange believes that a strong policy of participation and inclusion for farmers and their farm organizations in the final implementation decisions of H.R. 1440 will strengthen the support for this legislation and will ultimately provide for better, farmer-friendly administration of these programs.

Finally, we support expanding the language contained in subsection 5(h) to give farmers a clear presumption that they are complying with all conservation and environmental requirements that are covered by their plan, as well as those conservation and environmental requirements that are not specifically covered by the plan but are possibly affected by their plan.

The subcommittee's clear intent should be to push the presumption of section 5(h)—that compliance with the plan is a legal defense—to its limit. Strengthening subsection 5(h) would not only

provide greater protection to farmers, but would serve to encourage nonparticipating Federal agencies to take advantage of the cooperative agreements sections of H.R. 1440 to assure that their concerns are being addressed in the unified farm conservation planning process.

In summary, the National Grange supports passage of H.R. 1440, "the Site-Specific Agricultural Resource Management Act of 1993." We urge this subcommittee to consider making three changes to this legislation.

First, we urge strong language to require or persuade non-USDA agencies that have important resource management agendas to participate in the cooperative agreements provisions of the legislation.

Second, we urge that any criteria or standards that are developed under subsection 5(d) or evaluative factors that are developed in subsection 5(e) be explicitly subject to the public notice and comment provisions of the Administrative Procedures Act.

Finally, we urge that the legal presumption of compliance with conservation and environmental requirements in section 5(h) be extended beyond just those requirements that are covered by the farmer's plan in order to include any requirement that may also be affected by the plan.

Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Watson appears at the conclusion of the hearing.]

Mr. ENGLISH. Thank you very much, Mr. Watson.

I think that each of you made some very fine recommendations that we need to take into account. Mr. Kleckner, you made note of the time requirements in particular, and 1 year is what you recommended instead of the 180 days I believe we have in the bill for getting the rules and regulations.

Those are good proposals. I made the point yesterday, certainly compliance with the conservation requirements of the 1990 farm bill must be the first priority of the SCS. We have to meet that and I am aware that we are short of resources, so it is something we don't want to detract from.

By the same token, we don't want to give the Department of Agriculture an unnecessary amount of time because we feel, from the farmers' standpoint, it is very important that we put this in place as rapidly as possible and particularly for those farmers who have faced several different conflicting rules and regulations of various programs within USDA that they should be given some relief from that and an opportunity to work through a single plan as early as possible.

There is not much question, I think, that we are facing a more complex and difficult problem from the standpoint of rules and regulations within USDA, not to mention outside of USDA, other Federal agencies, State, and local. So we need to move that.

I didn't hear, Mr. Kleckner, from you on—did you have a point in your statement where you support—does the Farm Bureau support this legislation?

Mr. KLECKNER. Yes. That would be the bottom line, Mr. Chairman. We would support it. We have these concerns that I have outlined.

Mr. ENGLISH. I appreciate that.

Mr. KLECKNER. But we support it.

Mr. ENGLISH. As I mentioned, you made good points on that. Let me also say that, as far as our other witnesses are concerned, I would agree with the definition of a land unit. That makes a lot of sense. We should have that in the record to avoid some problems.

As far as the appeals process, it probably is a good idea that we look at that very carefully. As our objective is, I think everyone would agree, it is our ultimate objective to pull in other Federal agencies, State, and local government agencies into that appeals process. That will have to include representatives from those various groups.

I don't think we are going to get an agreement from EPA, for example, that they would participate in the thrust of this legislation and enter into an agreement with the Soil Conservation Service unless there is a bottom line, understanding that if there is going to be an appeals process, that obviously someone from EPA will have to be involved.

They will have to have their representatives involved in this procedure as well. So that mechanism will have to be developed, I would think, through the agreements of various outside USDA Government agencies and other governments would have to be involved. So I think that is something that we are going to have to leave to the agreement stage as to how that is set up.

Within USDA, obviously we can do that. We could designate whether it is ASCS or SCS or however the problem process is. But once we get out of that, it is going to be a problem. If it is our intention to bring in other entities to participate in the plan, we have to clarify that there needs to be an appeals process and agreements that reach these. These will have to be written agreements between Departments and governments, I would think.

Reorganization, we touched on that. I am not sure how this has an impact on reorganization. I think we will still have a Soil Conservation Service. It may have a different name. It may be folded into a different agency, but however it is, those people exercising this program are the ones that will be exercising this program. So I don't think this has any impact in that area.

Funding, we would hope—and we appeared before the Appropriations Committee earlier this year and I urged that funding of the—that we have full funding for those programs we authorized in 1990 and we need to move in that direction more so. I would agree that more needs to be done in that area.

The problem that we have is we have the requirements under law whether there is funding or not. All this legislation speaks to trying to make certain that farmers have a clear, concise way of addressing what is in the law and that we pull together the rules and regulations and the requirements of these laws into a single plan.

Funding, I think, is an additional issue. I strongly support funding. I think we need requirements to be sure if we put the laws on the books, that we have the funding for it. We have to be sure we have the allowances for that.

My time is pretty much expired, but also, Mr. Watson, you made the point with regard to other agencies, in stronger language. I

would like to do this, but this bill would probably go all over the House of Representatives and we would never see it again. So we have to address within this subcommittee what we can at this point in time and I am well aware of the delineation problems, and so on, and agreements and so on.

So we have those issues before us. You brought more to our attention. We will try to address those in legislation. I appreciate it.

Mr. Allard.

Mr. ALLARD. Thank you, Mr. Chairman. I don't have any questions. I just would like to thank the panel for taking the time and letting us know what your positions are.

Thank you.

Mr. ENGLISH. Mr. Holden.

Mr. HOLDEN. No questions, Mr. Chairman.

Mr. ENGLISH. Mr. Penny.

Mr. PENNY. Thank you, Mr. Chairman.

I appreciate your testimony this morning. I want to move to an issue that is off the agenda a little bit. We appreciate your response to the legislation that the chairman and I and others have sponsored.

We are also looking at an awful lot of CRP acres coming out of the program. What advice would you offer Secretary Espy and this subcommittee as to our policy for the future as it pertains to the CRP program? Do you want to start, Dean?

Mr. KLECKNER. Thank you, Mr. Congressman.

That is not an easy one, but it is sure getting a lot of discussion in the country right now, as I am sure you are aware, in Minnesota and in north central Iowa. People are wondering about it wherever I go across the country. It starts coming out in 1995 or 1996, and then it increases.

There is an awful lot of interest on the part of farmers, Mr. Penny, on maintaining that or a lot of it. I think there could be some land that would logically come out and maybe be replaced, if possible, by some other land that for some reason wasn't allowed in or didn't go in. This makes more sense for this land than some of the land that is in.

We are starting to think about this in the Farm Bureau and I am sure other agricultural organizations have been, too, with no conclusion yet. But some focus is that these were bid out, there is a contract and will probably have to be rebid in some manner and they just can't be extended again.

I know there is concern on the part of all of you here and all of us as taxpayers that it is not really a cheap program, but it has done a lot of good.

There are 35 or 50 million acres out under CRP. Also, the wetlands reserve was offered last year as a pilot program. I think 50,000 acres was taken out but 500,000 was offered by farmers. I think that blows to smithereens some of the ideas of some groups that farmers are not concerned about conservation of wetlands.

But I think it is accepted amongst farmers—I don't have any CRP land. I have a brother farmer and he has some CRP land and it was good land to put in CRP and I thought reasonably priced, reasonably bid. It is probably in the eyes of the beholder, but I guess I personally don't think it has been unduly expensive for the

good that it has accomplished considering some other Government uses of money that maybe some of us have questions about.

So if there can be a way to offer the bidding again, I would think there would be some acceptance at the current level of pricing and maybe even less. I don't know that.

Mr. PENNY. In the bidding process, you never know. But do you think the situation is such that we might see a more favorable set of bids coming in?

Mr. KLECKNER. I think I—

Mr. PENNY. By the time we were getting done with the current program, we were getting into pretty high bidding.

Mr. KLECKNER. Some of that is unduly high. I didn't get criticized, but I got asked many questions as the program went along from some areas of the country where the farmers said it makes no sense at all to accept bids in the CRP that are above—in some cases considerably above—going levels of cash rent. You are simply driving up the prices in those areas.

I had to agree with that. For those farmers that got those bids accepted, it was a great deal. You can't be critical, don't want to be critical of a ballplayer accepting \$6 million a year if it is offered, but I question as a taxpayer whether it should have been accepted—the Government accepted or offered to pay more than the going cash rent for the area.

That is what farmers said land is worth in this area to farm. Then in theory, at least you have CRP land with lesser quality land than farming quality land. I have personal questions about that.

Mr. PENNY. Ms. Webb, would you want to respond?

Ms. WEBB. No further than to say that I don't think we have really come to any conclusions in our organization about what to do at this point. We know it is going to be a problem.

I would like to, with your permission, perhaps try to respond to your office in writing and get you some details on what our members are thinking on this.

Mr. PENNY. I don't think we can wait until the last minute to signal to our farmers what our policy will be toward those acres. Any other quick responses?

Mr. CHANCEY. I would just say I would like to get back with your office later. But we are concerned. This is a cost measure. We know it is a big cost and we have to be concerned about it.

Mr. WATSON. Our members are also concerned about what will happen and we believe that, without any firm direct policies at this point, we basically need to focus on what our overall goals are in preserving our resources in highly erodible or other vulnerable land and whether or not that land is in CRP or not should not be the major concern. We should be worried about what we are doing with our vulnerable land resources.

I am not as concerned as Mr. Kleckner was about certain land rents even though some of them got high. When you are looking at contracts for 10 years as opposed to land rent contracts which run a year or so, you are looking at a different pricing consideration.

So I am not sure that, given the timeframe we have asked people to commit, that many of those contracts were really out of proportion to what the benefits that we got.

Mr. PENNY. Thank you for your responses.

Mr. ENGLISH. Mr. Barrett.

Mr. BARRETT. Thank you so much. I, too, appreciate the testimony from this panel. I think it was excellent.

I guess very quickly to you, Mr. Kleckner, yesterday I asked the USDA a question about timetable and the implementation. They expressed a similar concern that I believe you expressed today.

Did you suggest in your testimony that you support full implementation of H.R. 1440 in the year 2005? Is that what I picked up?

Mr. KLECKNER. Mr. Barrett, what I intended to say was that I don't think you can assess how complete the effect of this will be for 10 or more years. It just takes that long to work everything through. What I intend to say is to make a quicker judgment than that, a snap judgment or a judgment within a year or two on, is it working or is it not working, would be unfair. You just can't do it that fast.

It takes so long to work it through, the effects of it. The effects don't happen overnight and with a year or two. You can't honestly determine if it is working that quickly or not.

Mr. BARRETT. In terms of the year 2005, it is not a specific—

Mr. KLECKNER. No, it was a reference point, more or less.

Mr. BARRETT. Thank you. On page 3, I think, in your testimony you indicated that you thought the SCS should be the lead agency in conservation activities. Speaking of judgment, you said specifically that they should not be asked to be both the enforcer and the judge.

The obvious question is: Who should be the enforcer and/or the judge?

Mr. KLECKNER. I am not sure. That is a good question, Mr. Barrett. I think that is one of the things you will have to work on and we will be happy to think further on it and respond in writing about the possibilities.

In fact, SCS will be armed. We think farmers will be—they are getting upset anyway at what is happening, regrettably, I might add, because there are many, many fine people in SCS. But you just can't do both and be credible. That is the problem.

Mr. BARRETT. I think the subcommittee would be very grateful if you could at some later point in time offer some suggestions or thoughts. I know I would.

Mr. KLECKNER. Thank you.

[The information follows:]

Add a new paragraph (i) at the end of Section 5 that would provide for immediate access to the established ASCS review and appeal process:

(i) APPEALS.—Any agricultural land user shall have the right to appeal any adverse determination by the Soil Conservation Service of non-compliance with the terms of a comprehensive site-specific plan developed under paragraph (c)(1) as well as any permit, exemption, and waiver issued in connection therewith, to the local ASCS committee and then the state ASCS committee established under section 590h(b) and any adverse determination by such local or state committee shall be subject to review pursuant to the appeal provisions of section 1433e of Title 7.

Mr. ENGLISH. Ms. McKinney.

Ms. MCKINNEY. No questions, Mr. Chairman.

Mr. ENGLISH. Mr. Ewing.

Mr. EWING. Thank you, Mr. Chairman. I have one question. But first, I would comment that I think this legislation is very timely and it is in an area where we probably all agree we need to work.

I would ask that all of you representing American farmers and operators would continue to review this process and further input, I think, is necessary. Congressman Barrett pointed out a good question: Who will be the judge, the jury, the enforcer? That isn't clear.

What would you think of a procession of implementation where there would almost be a trial period for this?

I am a little concerned when the Federal Government gets into the paper reduction business or consolidation of forms. Sometimes you end up with more paperwork than you did when you had the old system. What would you think about some type of a trial period or a trial run at implementing this new form or a new plan? Any of you, please.

Mr. CHANCEY. If I might, I don't see the rigidity at this time with H.R. 1440 that others seem to imply to it. This in and of itself is just the first step. I would like to see it implemented.

As far as the time lines go, the 180 days, I don't really see a problem with that either because we are talking about getting this thing started, and if it takes very long in the House, we are talking about getting into the 1994 crop year. We should give the farmers the opportunity to plan as far in advance as we can.

I think that the time lines that have been set forth in H.R. 1440 are worthy. One hundred and eighty days, if it puts the Department under the gun, fine. I think the farmers have been hanging out there long enough without any protection.

But as far as a trial run, the plan as I see it is made up to be able to be flexible in the future. All of these different agencies are getting together to discuss plans and certainly, if requirements change, then those plans could change as well.

Mr. EWING. Anyone else?

Mr. KLECKNER. Mr. Ewing, rather than a trial period with this particular bill or not, whether it is appropriate, I am not sure, but it seems to me if it is possible to do trial runs on many Government initiatives to see how they work before they are fully put in place, it would be good if it is possible to do.

Very often, things just don't work out despite the best efforts of all of you and all of us, farmers are adroit at finding ways around, Government is adroit at finding ways around. So like Pepin County, Wisconsin, it was a trial so to speak. I am not even sure how it got started, except I heard about it for quite awhile and we checked it out and it is working very well.

That is a trial that shows that some initiatives, voluntary, do work and they do what needs to be done. So whether a trial here in a limited way would be appropriate, I don't know the answer for sure. In answer to the comment on the 180 days versus a year, I would think if you could do it in 180 days and be sure that it was right, given everything else on their plate, that would be fine.

But my only point was they have a double plateful now, and to expect them to accomplish it in 180 days without error, might be

more than could be expected. Maybe a year. You give people time, they usually go to the last minute to get it done. I recognize that.

All I was saying was, let's have it done right the first time, and if it can be done right in 180 days, fine. I think it is more likely to take a year to be more assured it is done properly.

Mr. EWING. Yes, sir.

Mr. WATSON. I would make just a couple points. First, there are really two areas we are talking about here, the one part is the planning and implementation process within the Department walls itself, within the bureaucracy, forming the regulations, standards, procedures, and all of that.

I would not want to give the regulators the idea that they had a trial period or first crack and they could go back and redo it. I would second Mr. Kleckner's idea that we want to get it right the first time and we want to be sure that the process of reforming the process is done right the first time and it is not a first guess kind of thing.

Where a trial period would have advantages is in terms of implementation on the farm. It could possibly provide some direct delivery managerial experience if we took a few counties and tried out those plans there first. But, again, that delays its value in getting to all farmers as quickly as possible and, again, we don't want to give too many people in the USDA the idea they have three or four swings at this thing.

Mr. EWING. Well, my time is up, but I would just make the point for all of our consideration on this subcommittee, and for you who represent farm organizations, that many farmers have complied with the planning process. And if we send out a new plan for them and tell them and they get a notice that they have to come in and redo their plan, I want to tell you every one of us around this table will hear from them. We want to be sure it is right when we do it again. I think that is an important thing.

Mr. Chairman, I think it is very important for us to do it that way. It is a good idea, but I know I will hear from my farmers that have done their plans already.

Mr. ENGLISH. Thank you very much, Mr. Ewing.

I would only make one comment, the intent of the legislation, that is the one thing we want to be sure is clear, is that we—what we are doing is not necessarily implementing new law from the standpoint of programs, but what we are attempting to do is bring those programs together in a central location and require them to fit these programs together so that the farmers aren't yanked from pillar to post and led into conflicts.

Your point is a good one. We have to make sure that we do understand that we are not asking for additional plans over what we have. We want just one plan.

Mr. EWING. If you would yield.

Mr. ENGLISH. Yes.

Mr. EWING. I went through the process where we did our plans and many of them were thrown out. They had to come back in and redo their plans.

That type of paperwork is very irritating to the producer out there who feels he has a lot of other things to do than stand in line

at the SCS office or Soil and Water Conservation Office. That is the point I am making.

I think the intent of your legislation is good. I think how we implement it is—it gets away from us sometimes at the committee level and those of us who support it, and gets caught up in a new bureaucracy and everybody gets their notice to come in and redo it.

Mr. ENGLISH. That is a good point. Unfortunately, we don't have control over rules and regulations and that plays the key role on the implementation of any of these programs. We have seen a lot of programs with good intentions and good objectives and what we all agree to have still not turned out the way that many of us conceived when we voted for them in Congress. So it is a good point. I appreciate that and we will work on that.

I want to thank the witnesses for their testimony. It has been very helpful. Again, we are getting good, constructive recommendations. We appreciate that very much. Thank you.

I am afraid we are running a little behind. We are going to have to ask our witnesses that come to the table, our other panels, to please limit, if you could, your testimony.

I mentioned before your complete testimony will be made part of the record and I think we are going to have to probably have a reminder if we could for our witnesses on their time to try to encourage them to move along.

Our next panel of witnesses includes Ms. Kathleen Hartnett, who is director of the private lands, water and environment of the National Cattlemen's Association. Ms. Hartnett, we appreciate you being here today.

Mr. Jerry Calvani, who is the chairman of the National Cotton Council of America, on behalf of the National Cotton Council, the National Association of Wheat Growers, the National Corn Growers Association, the American Soybean Association, and the United States Rice Producers Group.

And, also, we have Mr. Ferdinand Hoefner, the Washington representative for the Sustainable Agriculture Coalition.

We welcome each of you. Ms. Hartnett, we will let you begin your testimony, if you would please.

STATEMENT OF KATHLEEN HARTNETT, DIRECTOR, PRIVATE LANDS, WATER AND ENVIRONMENT, NATIONAL CATTLEMEN'S ASSOCIATION

Ms. HARTNETT. Thank you. I will help you out on abbreviating. Obviously the written testimony will be in the record.

Like most who have testified today, we thank you very much for recognizing the need that this legislation sets out. One that is particularly appealing to cattlemen is its emphasis on site-specific and integrated resource management. I think that just that one point, which I explain more in the testimony, I would emphasize, that is, for real natural resource protection, environmental protection.

I think until laws and regulations can get down to the unique physical parameters of a specific land unit or piece of property, that real enduring environmental protection will not occur. Nor will it occur on private agricultural land unless, as your bill sets out,

it incorporates economic viability and productivity from the start of the process. We see those as very, very positive things in your bill.

We may bring a little different perspective to this issue because cattlemen, many at least, do not participate in USDA commodity programs so are not required to have conservation compliance plans. But from other agencies of the Federal Government and from State government, I think it is fair to say that the majority of cattlemen are now wrestling with multiple mandates of management plans for conservation and environmental requirements.

I might, before I raise some questions particularly relevant to cattlemen, point out an example of the need for your bill. This is a very nonsite-specific approach to conservation management on private agricultural lands.

These are the recently issued management measures as required by the Coastal Zone Management Act amendments of a couple years ago. These are enforceable in States. They involve articulation of minimum management measures by EPA. I would call them standards, for about six different categories from pesticides, irrigation, erosion, confined animal facilities.

They are national minimum standards, enforceable, and they are hardly site-specific. As an example of things going on in other agencies, to these, I think your bill provides a very important alternative.

With these positive comments in mind, we would like to raise just a few questions about some specific provisions. Some of these have already been raised. So I won't go into detail on them.

We cherish what we consider the statutory role of the SCS as an agency providing cost-effective technical assistance to agricultural producers on a voluntary basis. We have seen that role already eroded by the compliance role required by the last two farm bills. The clarity with which this legislation makes SCS the compliance agency is a concern to us. This question has already been raised in terms of judging, enforcement, et cetera.

Other questions we have are what might occur, if it did occur, with agreements between SCS and other agencies to incorporate into the site-specific plan the legal requirements from other statutes outside of USDA purview. The examples obvious to us are the Corps of Engineers, EPA wetlands authority, water quality from State laws as well as very possibly through section 319 of the Clean Water Act in this next reauthorization, the nonpoint source controls already law in the Coastal Zone Management Act and certainly the Endangered Species Act.

Although H.R. 1440 provides that non-USDA agencies may enter into agreements with SCS for implementation of environmental requirements on agricultural land, we are not sure whether they could, i.e., whether it would be legally possible for those agreements to be binding unless the other statutes themselves were amended, whether it would be possible for Fish and Wildlife to delegate authority to enforce the Endangered Species Act on private agricultural land without an express amendment to the Endangered Species Act.

Similarly, it is doubtful whether a site-specific package designed by SCS that aimed to balance agricultural productivity, economic cost, and environmental objective could pass muster with the

tough, to the point of unequivocal standards of the Endangered Species Act standards which the Supreme Court has stated outweigh all costs and benefits. It is hard to understand how the Endangered Species Act could be fulfilled through the more balanced approach in your bill's criteria.

An example, real life example of that: For 2 years in Texas, the Soil Conservation Service and the Fish and Wildlife Service worked on conservation plans and habitat protection plans on ranch land and farmland involving protection of the black capped vireo.

After a long time, a lot of work, and very cooperative attempts, the final plan approved by SCS pretty much endorsed by producers, the Fish and Wildlife Service said it probably could work, but can't tell you it really fulfills the legal requirements of the Endangered Species Act.

Also similarly, the liability protection which we also think is essential, and one of the best provisions in this bill, perhaps the most appealing to producers, is questionable whether that could hold. The Endangered Species Act and most other Federal statutes have citizen lawsuit provisions. It is unlikely that, as stated in your bill, that liability protection would override that.

For example, if a special interest organization representing the public didn't believe an individual SCS plan met the terms of the Endangered Species Act, the landowner, the Fish and Wildlife Service, and SCS could be sued.

The last question concerns the possibility that such appropriately comprehensive resource management authority vested in any one agency of Federal Government could inadvertently become the basis for mandatory nationwide land use control on private agricultural land.

Unfortunately, this is a real possibility, I think. Outside of USDA programs, Federal laws tend toward mandatory authority on private land more and more for ecological objectives. And NCA certainly does not want USDA and SCS to facilitate what cattlemen believe is unnecessary environmentally, counterproductive, unconstitutional Federal land use control.

There are still many agricultural producers and certainly many cattlemen who are not required to have a management plan certified by the Federal Government as a condition for operating their private land. And while conservation planning is an excellent option to fulfill a variety of conservation, agricultural, and other objectives, we don't feel it is the only meaning of ensuring environmental protection.

With those questions raised, we do want to say clearly that we support the goal of this legislation. And as an effort to integrate and streamline conservation planning on a site-specific basis, we do think the bill raises many questions that I have tried to articulate. But it recognizes a really critical need. NCA very much appreciates its being introduced and we look forward to ongoing consideration of this bill with you and other members of the committee.

Thank you.

[The prepared statement of Ms. Hartnett appears at the conclusion of the hearing.]

Mr. ENGLISH. Thank you very much.

Mr. Calvani.

STATEMENT OF JERRY CALVANI, CHAIRMAN, NATIONAL COTTON COUNCIL OF AMERICA, ALSO ON BEHALF OF THE NATIONAL ASSOCIATION OF WHEAT GROWERS, NATIONAL CORN GROWERS ASSOCIATION, AMERICAN SOYBEAN ASSOCIATION, AND U.S. RICE PRODUCERS GROUP

Mr. CALVANI. Mr. Chairman, thank you.

I am Jerry Calvani, a cotton producer from Carlsbad, New Mexico and chairman of the National Cotton Council of America. Today I am speaking on behalf of the National Cotton Council, the National Association of Wheat Growers, the National Corn Growers Association, the American Soybean Association, and the United States Rice Producers Group.

Mr. Chairman, we commend you for your leadership in introducing H.R. 1440, "the Site-Specific Agricultural Resource Management Act of 1993" and appreciate the opportunity to present our comments on this legislation. Our organizations support the concept of streamlining the process for establishing resource management plans for a farm.

Farmers already spend a great deal of time consulting with various governmental agencies and filling out numerous forms. Furthermore, the Department of Agriculture's policy of coordination and teamwork would be enhanced by establishing one basic site-specific program for these plans.

The U.S. Department of Agriculture was created 130 years ago to conduct research and provide information to farmers. Today, this role has greatly expanded. Department programs are now designed to support farm income, develop markets, boost farm production and exports, provide consumers with food information and assistance and conserve and protect our Nation's natural resources on all farms.

This expansion, together with advances in technology and environmental protection, have changed the Department's initial role and mission. Conservation and environmental issues are gaining in importance in establishing farm policy.

In 1992, several congressional hearings were held on streamlining USDA and its field structure. Several options are now under review to integrate the Department's farm service agency delivery system so that multiple agencies operate as a unit.

Today, American farmers receive valuable help from the Soil Conservation Service, the Agricultural Stabilization and Conservation Service, the Extension Service, the Cooperative State Research Service and the Forest Service, just to name a few. Farmers have also volunteered their time to serve on State and county ASCS committees.

These committees administer and oversee ASCS programs and activities as well as the field operations of the Commodity Credit Corporation. Many members of the organizations that I represent here today serve on these committees. This local involvement and State and Federal coordination are essential for proper development of all farm programs.

Proper implementation of most farm conservation programs depends on a close and effective working relationship between farmers and the Soil Conservation Service, Agricultural Stabilization and Conservation Service, Forest Service, Extension Service, and

others, especially regarding site-specific resource management plans. The particular needs of farmers as well as the established working relationships that they have with State and local officials should also be considered.

Developing these plans on farmland can be very complex. For example, the Soil Conservation Service, the Agricultural Stabilization and Conservation Service, and the Forest Service have designated 172 different soil and water conservation activities that are eligible for cost sharing, 92 of these are considered water quality activities.

More than one-half of the 92 water quality activities may be eligible for cost share under five or more programs. I am enclosing in my testimony a list of these 92 water quality activities just to illustrate the complexities involved.

H.R. 1440 gives responsibilities to the SCS to work with other agencies or Departments to establish a single farm plan for the management of natural resources. Provisions to accomplish this and to streamline a very complex system will take an enormous effort. My example of 92 activities is just one area in which SCS will assume extensive responsibilities.

How the process will actually work for an individual farmer is not quite clear. Will the farmer be able to choose from a menu of plans established by the Soil Conservation Service or will only one plan be offered?

How will the funding mechanisms for cost share work and what would be the basic procedure for establishing a plan? In determining compliance as well as exemptions and waivers how will SCS exercise its responsibilities?

There are many uncertainties involved in farming, and some, like the weather and costs, can never be resolved. However, farmers need to know that if they fully implement an approved plan they are in compliance.

Farmers cannot afford to have the rules change once they have agreed to plan. In H.R. 1440, farmers are deemed to be in compliance with all conservation and environmental requirements if the plan is properly implemented and we certainly agree with that. This gives liability protection to farmers which is essential in any good faith agreement.

It is important to continue to strengthen USDA's position on the environmental front—especially now when restructuring the Department is being considered and farm programs could be affected by legislation established outside the traditional farm bills. H.R. 1440 is a step in the right direction if it is done in the spirit of teamwork and efficiency.

Our organization looks forward to working with you on the provisions of this bill as it goes through the committee process and we commend you for your hard work and foresight.

Thank you very much.

[The prepared statement of Mr. Calvani appears at the conclusion of the hearing.]

Mr. ENGLISH. Thank you.

Mr. Hoefner.

**STATEMENT OF FERD HOEFNER, WASHINGTON
REPRESENTATIVE, SUSTAINABLE AGRICULTURE COALITION**

Mr. HOEFNER. We appreciate this opportunity to present our views. We view the ideas in this proposed legislation as an important next step in farm conservation policy.

Several months ago, we joined with other groups from around the country to send about 30 pages of detailed recommendations to the new administration on implementation of the existing agricultural programs with relevance to sustainable agriculture. Among these recommendations was a plea for comprehensive resource protection and single reporting, much like in this bill.

We strongly endorse the concepts that lay behind the bill—total resource management planning, comprehensive and consolidated farm plans, one-stop shopping for farmers, and increased inter-agency cooperation and partnership.

We believe, however, that passage of this type of legislation by itself will not make these concepts a reality. Based on our experience, there are many necessary actions that must take place if these good ideas are to really take hold, including, but not limited to, enhanced research and technology development efforts, technical assistance, adequate training, independent appeals, and cost-share program consolidation and rule revision.

I would like to touch on these just briefly. In the research area, for comprehensive resource management to be successful, farming systems research needs to be accelerated with the goal of developing and refining new options for farmers to better meet social, economic, and environmental needs. The new USDA sustainable agricultural program—SARE—and EPA's associated agriculture in concert with the environment—ACE—program, are critical to the ultimate success of comprehensive systems planning.

Unfortunately, these programs are woefully underfunded, representing less than one-half of 1 percent of all USDA research expenditures. We urge this subcommittee to work with your colleagues on the Appropriations Committee to turn the situation around by redirecting funding so this essential component of the overall infrastructure needed to do comprehensive planning can move forward.

In the area of technical assistance reform, the SCS will not be able to fulfill its obligations under this bill for comprehensive planning unless its technical guide infrastructure becomes more fully equipped to undertake farming systems and agroecosystem approaches.

We strongly support the thrust of total resource management, but have serious questions about whether the primary technical assistance tools as they stand today are truly designed for systems approaches. We might note that the technical guide development and revision process occurs almost entirely within the agency, without participation of other agencies or research institutions, much less with the participation of farmers and private organizations with appropriate expertise. This does not bode well for the cooperative arrangements envisioned in H.R. 1440.

We believe a new partnership must be forged that will include expertise from other agencies and a more central role for farm operators and their networks and organizations who are so often far

ahead of the curve in developing a truly sustainable agricultural system.

The closely related question of training is important as well. For the past 7 years, SCS has necessarily focused training on highly erodible land questions, but to move to the next generation of more comprehensive and integrated resource plans, agency personnel, particularly new hires, will have to undergo additional training.

One important vehicle for this, in addition to ongoing SCS training activities, is the sustainable agriculture technology development and transfer program's national training initiative. This program has been scheduled for first time funding in the President's 1994 budget proposal. We urge your support for that effort.

We agree with previous witnesses on the issue of independent appeals. I won't go into that further.

We strongly support and appreciate the single plan directive and cost-share coordination language in H.R. 1440. We would like to see it eventually move to the next step of consolidating cost-share programs and the issuance of new rules to operate those programs with the eventual goal of requiring comprehensive plans as a condition of receiving financial assistance.

A couple of specifics about the bill. On the single plan issue, we have some experience now with single plans in relation to the integrated farm management—IFM—program commodity option. The producers who do enroll in the integrated farm management program are availed of a single plan if they are subject to conservation compliance. They can merely amend the conservation plan. That was not the case when the program started, but we have convinced the Department that that is the way to go.

I think that is good and I think it should be extended to all programs. I would note it is not without difficulty, even when you get to that point. We have had several instances where State and local staff have misapplied the farm management requirements to fit with what appear to be preconceived notions of what is required under conservation compliance. There may be instances where requirements of different programs and regulations will not mesh, but this was certainly not one of them and, therefore, was cause for concern.

We appreciate the language in the bill about various management alternatives being taken into consideration and might suggest some strengthening of that language at the appropriate time.

On the time line issue, we agree with the comments about proceeding a little more slowly but would just note that, in our view, we think you could start in 1994 on the issue of single plans. We don't see any impediment to doing that for anybody who wants to avail themselves of that possibility. In fact, if that was allowed, it would maybe be something of a pilot testing of some of the issues that are necessarily going to arise as that comes up.

We have some very strong concerns about the modification of plans. We have run into problems on that score with the integrated farm management program. We like the language in the bill. Again we might suggest strengthening language at the appropriate time.

In conclusion, on the issues of conservation goals and criteria and standards, the liability issue and the permit waiver and exemption responsibility language, we would like to associate ourselves with

the testimony of Robbin Marks and Tim Warman from the April 1 hearing. We think these are important concerns. We think they can be dealt with and should be dealt with as this legislation moves forward.

In conclusion, we encourage the subcommittee to continue to pursue the concepts in this proposed legislation, but also to consider the other vital parts of the conservation and environmental infrastructure that will be needed to make this concept a real working reality.

Thank you for the opportunity to testify.

[The prepared statement of Mr. Hoefner appears at the conclusion of the hearing.]

Mr. ENGLISH. Thank you very much, Mr. Hoefner. I appreciate that. I appreciate the contribution each of you have made on this. I think you have helped us out some.

I do think that it is important that we keep in mind not to make this legislation more than what it is. It is a mechanism that is used to—intended to facilitate the cooperation by Government agencies. That is not to say that this in any way weakens any law that may be on the books or anything that may come after it.

We can't deal with that. It is not intended that this legislation will do that.

What we are hopeful of is that as we meet the requirements of the law, once it is on the books and the rules and regulations as promulgated by the agencies whether it is in USDA or outside the USDA.

We would expect that we will see some timelag before we see agencies outside the USDA taking advantage of this opportunity. We feel that we are going to see—it will have to be proven within USDA before we would see other agencies voluntarily link up to this overall approach.

We recognize that the Soil Conservation Service today is in no way prepared to take on all of the environmental laws that we have in the Federal, State, and local governments and suddenly hook them into a single overall comprehensive plan. Nor is that the intent.

We would expect that this plan would evolve, and as the Soil Conservation Service and USDA moves toward putting together a plan for various farms, then we would expect that others would take advantage of it; nor do we expect that every farmer will come in the day after this is signed into law asking that, in fact, a plan be designed for them.

As you will note, the legislation applies only in those cases where we have more than one requirement on a farm, do they become eligible.

So we would see this evolving, not something that is instantaneous. Certainly it is not an end. It is a beginning.

While I wholeheartedly agree with the objectives that many of you have stated, and frankly there are some goals I would like to attain in this legislation, but they are simply not practical at this time. Both from the—the time period we see is, while we see this as a long-term evolution that would take place under this particular legislation, we do feel that it is important that we begin.

While we do not want to take the Soil Conservation Service away from the compliance requirements of the 1990 farm bill, as I mentioned earlier, we do think it is important that the Soil Conservation Service begin planning to get this implemented. We think it is important that we do put on deadlines, as far as rules and regulations, so that we do put them under pressure to a certain extent. But we will make clear that we expect this in no way would hinder the compliance with the requirements of the 1990 farm bill.

Anyone looking for relief under any given law that may be in existence today, you know, this legislation is not going to do that for you.

You folks need to understand that. We do hope that it will make it possible for those laws to be implemented in a more farmer-friendly fashion. We hope we will be in a position to eliminate the disparities between various rules, regulations, and requirements of law.

We do hope that we will be able to meet two goals: One is to have a more effective overall program nationwide in dealing with the environment, and the problems of the environment, at the same time that we do it in a far more farmer-friendly fashion, that we are attempting to meet two goals here.

I think it is important that we not make more of this legislation than what it is. By the same token, for the long term, it will be a very important device that helps farmers as well as helps us meet the overall goals.

I do not in any way see that this legislation is going to promote or encourage any kind of requirements in law that we are not going to see happen anyway. I think that the trend is in place. Our Nation is focusing on environmental issues and I would think that has not run its course at this particular point. So we are hopeful that we will see that met.

As I said, I appreciate what you have said, but I want to make sure that the record is clear and we don't get expectations too high, that this—where people expect this will give relief from this or that law and somehow we are not going to have to meet these requirements that have been stated in other legislation.

I am hopeful, also, that as we see new laws come through the Congress, that the Agriculture Committee—if agriculture is going to be impacted—that the Agriculture Committee will be a stopover and we will have the opportunity to have our input and we will have an opportunity to make sure that this particular mechanism is taken into consideration and that we would see that worked into an overall approach.

As I said, it should be far more farmer-friendly and for those most concerned about the environment, it should make for a more environmentally effective program for our Nation.

Mr. Allard.

Mr. ALLARD. I don't have any questions or comments, Mr. Chairman.

Mr. ENGLISH. Thank you very much.

I was supposed to be asking questions, but I think each of you raised very good points. I feel I have to try to speak to those and, hopefully, maybe that has been beneficial to you, too.

I think this is a very important piece of legislation and I sure appreciate the contribution everyone has made and I appreciate the attitude you bring. It has been great as far as everyone I think trying to help out. Thank you. I appreciate that.

Mr. CALVANI. Thank you.

Mr. ENGLISH. Our next panel consists of Mr. Roland Geddes, Washington representative for the National Association of State Conservation Agencies; Mr. Max Peterson, from the International Association of Fish and Wildlife Agencies; Mr. Gerald Rose, chairman of the National Association of State Foresters Resource Management Committee, on behalf of the National Association of State Foresters; and Mr. Earnest Shea, executive vice president of the National Association of Conservation Districts.

Mr. Geddes, we will let you start off on your testimony.

STATEMENT OF ROLAND B. GEDDES, WASHINGTON REPRESENTATIVE, NATIONAL ASSOCIATION OF STATE CONSERVATION AGENCIES

Mr. GEDDES. Thank you. Good morning, Mr. Chairman and members of the subcommittee. I am Roland Geddes, Washington representative of the National Association of State Conservation Agencies. Our members have different names but are essentially the State soil and water conservation agencies across the country. We are very interested in this bill.

Our organization strongly supports this concept of a single, site-specific resource management plan to meet the various conservation or environmental plans required by the U.S. Department of Agriculture for agricultural land. We also agree with the concept of authorizing other Federal agencies to enter into agreements with the Secretary of Agriculture to incorporate any conservation and environmental requirements of that agency with respect to agricultural land into the single site-specific plan.

As State agencies, we especially appreciate the provisions authorizing the Secretary to enter into agreements with any State whereby State or local government conservation and environmental requirements for agricultural land may be incorporated into the site-specific plan. This is becoming more important all the time. This is especially important as States have adopted agricultural requirements to meet State priorities and comply with section 319 of the Clean Water Act nonpoint source water pollution requirements. Recent amendments to the Coastal Zone Management Act require coastal States to adopt "enforceable measures" to address nonpoint source pollution. In many cases, these State "enforceable measures" will include new requirements for agricultural management plans.

Our farmers are now complaining about the myriad number of plans required by Federal, State, and local government. It is important that these required plans be consistent and where possible consolidated into the single site-specific plan.

Attached to my prepared statement is a copy of the Southeast Farm Press about a neighbor of mine, chairman of the local soil and water conservation district in Tidewater, Virginia.

With his family, he farms 5,000 acres in Tidewater and across the Potomac in southern Maryland. Right now, they have 64 separate conservation plans for their lands in Virginia, and 16 plans for

their lands in Maryland, for a total of 80 conservation plans for their operation. When you put them in a stack it is over a foot high.

This is an outstanding conservation farm family. They really try to do everything right. Some of these are voluntary plans, some are required plans. But that is an intolerable situation. In Virginia, 2 years ago, the leaders of the State conservation agencies and the appropriate Federal agencies signed an MOU that they would attempt to put their resources together to develop a single plan for farmers in Virginia that would meet the requirements of the Commonwealth, local governments, and the Federal programs.

We do have a committee working on that. It is slow going, but it is in process.

Our organization believes that SCS is the appropriate agency to develop criteria, standards, specification, and regulations for the agricultural plans required by Federal law and regulations; however, the priorities, criteria, and specifications should be developed with full participation of Federal and State agencies including State FSA technical committees. We are not sure the words "consult with Federal and State agencies" are strong enough.

We have considerable expertise at the State level. We would like more than just to be consulted with. Although SCS is the appropriate agency for establishing plan criteria and standards, individual plans may be written by the agricultural producer himself, agricultural consultants, agribusiness employees, or employees of State or local governments including local soil and water conservation districts.

A good farmer should be able to write his own plan. In many cases, he knows more than anybody else about it. Agricultural consultants or agribusiness employees such as the chemical and fertilizer employees, should be able to write plans subject to the standards and specifications and oversight of SCS.

We also recommend that a provision be made in this law for local soil and water conservation districts to have authority to assume plan approval authority.

This plan approval authority, of course, would have to be subject to SCS oversight to ensure compliance with established criteria and specifications. We believe this provision makes regulation closer to the farmer, much more palatable, and provides a reality check that these are really the right kinds of plans to have.

I have had experience in my home State with our State requirements for conservation plans where the local conservation districts, which are political subdivisions of the State, with directors elected on the general ballot have plan approval under State law.

I would tell you, after having sat through many long sessions with them while they approved plans, that farmers take this responsibility very seriously and could provide a real support mechanism to this concept across the country if you allow them to have that assumption authority.

In Virginia, I mentioned awhile ago that we have lots of plans required on the Chesapeake Bay Preservation Act. Our legislature required that by 1994, in the tidal areas of Virginia, all agricultural land have a conservation plan. That was a good requirement. It requires erosion, pesticide, and nutrient elements of the plan.

As we moved into this, we found there were 28,000 plans required just on that part of the State and, with available resources of Soil Conservation Service, State people and local conservation district people, at the rate we are going, we will complete those plans by the year 2004.

For this reason, we are happy with your statement this morning that this bill just covers the requirements in law or may which be required. While a goal of having a comprehensive management plan for all of agricultural land in America is desirable, certainly such a requirement is impractical with the resources we have and should not be extended to that.

We again appreciate this opportunity and look forward with a good deal of interest in working with the committee and USDA in implementing this concept.

Thank you.

[The prepared statement of Mr. Geddes appears at the conclusion of the hearing.]

Mr. ENGLISH. Thank you.

Mr. Peterson.

STATEMENT OF R. MAX PETERSON, EXECUTIVE VICE PRESIDENT, INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES

Mr. MAX PETERSON. Thank you, Mr. Chairman. You have my statement. If you put it in the record, I will brief it.

Mr. ENGLISH. Without objection.

Mr. MAX PETERSON. We probably have more reservations about this legislation than anyone who has appeared so far. I want to explain. Conceptually, what you are trying to do would be difficult for anybody to argue with. You are trying to simplify things. You are trying to have the farmers do a better job and you are trying to plan more systematically.

No one can argue with those concepts. The old adage is; "The devil's in the details, and we have to start from where we are," is where we come out with having some major problems.

For example, it is very unlikely that States would delegate their authority upward to the Soil Conservation Service. In fact, the whole trend is for the Federal Government to delegate to the States, as you know, under the Clean Water Act and Clean Air Act, etc. So the question of whether it is appropriate to ask the States to delegate up to a Federal agency raises interesting questions as to whether that is the way we want to go.

As somebody said earlier, it looks like Federal land use planning. I am not sure what one of these single comprehensive resource management plans looks like. I am not sure I have seen one in the context of what this bill calls for.

For example, plans are out there now that were developed under the 1990 farm bill. They are supposed to be in place. The plans are there. So it seems to us the big job for SCS is to help get the plans implemented in the next few years to meet the requirements of the 1990 farm bill.

As you remember, Mr. Chairman, we suggested that State technical committee including both State and Federal people help develop standards and guidelines for the conservation provision of the

farm bill. That idea seems to be lost in this legislation. There is a requirement in the bill to consult with the technical committees. It seems to me more realistic to have the SCS coordinate efforts of State and Federal agencies for planning.

This bill seems to unilaterally transfer authority to SCS for all of USDA programs and even appears to say that the States could also do this. We think that is constitutionally not possible for most States to do. So we would suggest, Mr. Chairman, that we work with you and look at some ways you might put SCS in a coordinating role and maybe we first ought to do some plans under existing law to see what they look like.

I don't know of any reason why you couldn't do a few plans under existing law to get some idea of what they look like. For example, I own a little tiny piece of land near here in Loudoun County and I have a plan in place. I am not so sure that I want to suddenly be faced in 1994 with developing something called a comprehensive plan that might have 25 new requirements that I never heard of that somebody will put into that plan because I am in the Chesapeake Bay, watershed, etc.

So I don't know what we are buying when we say we are going to do this big comprehensive plan, what it might look like. Mr. Geddes has talked about 80 plans being over a foot high, we might end up with one plan that is 3 feet high because, as I understand his example, there are different ownerships. The question of whether you can combine several different ownerships in one plan and make it a legal plan is one of the questions we don't know the answer to.

Let me suggest a couple other things that we see as a problem. Even though we would agree with the concept that there should be liability protection for somebody who has developed a plan, and is attempting to follow it, the way the legislation is literally written, I could develop the plan and legally not do anything about it for 20 years, or implement a little piece of it and at the same time be in violation of the Endangered Species Act or Water Quality Act.

That is not realistic that you could really develop a plan that would violate those laws just because you were, quote, "implementing it," that you were not responsible for violation of basic State and Federal laws.

Let me finally say that we would like to work with you as you try to do some of the things you are trying to do. I think we agree overall, conceptually, with what you are trying to do. We are just trying to figure how you do it which is important.

Finally, the reorganization of USDA, which is now in the President's budget, which wipes out SCS as an entity, and also reduces the staffing available to the new Farmer Services Agency by 23 percent over the next 5 years seems to us to be completely inconsistent with this new planning requirement.

Mr. Chairman, that completes my summary of the testimony.

[The prepared statement of Mr. Peterson appears at the conclusion of the hearing.]

Mr. ENGLISH. Mr. Rose.

STATEMENT OF GERALD A. ROSE, MINNESOTA STATE FORESTER, AND CHAIRMAN, RESOURCE MANAGEMENT COMMITTEE, NATIONAL ASSOCIATION OF STATE FORESTERS

Mr. ROSE. Mr. Chairman, members of the subcommittee, I am Jerry Rose, here today representing the National Association of State Foresters, I am the State forester of Minnesota and serve as the chairman of the National Association of State Foresters Resource Management Committee. We appreciate the opportunity to present our comments on this proposed legislation.

Our organization represents the directors of forestry agencies from the 50 States and 3 U.S. territories Guam, Puerto Rico, and the U.S. Virgin Islands. In that capacity, we are responsible for providing services and protection to more than 75 percent of the Nation's forests, the majority of which are owned by nonindustrial private landowners.

Founded in 1920, NASF's mission includes promoting cooperation on forestry matters between the States, territories, Federal Government, and other forestry interests. In addition, NASF develops and promotes legislation, programs, and activities which will advance forest stewardship management and the use and conservation of all forest resources.

I would like to say that State foresters, in partnership with the Forest Service, support an integrated approach to planning on private lands. This is the forest stewardship program under the 1990 farm bill that we worked to establish and State foresters and the Forest Service have worked actively already to make forest stewardship plans compatible with other national conservation plans.

For example, tree farm plans. We have worked with tree farm organizations to modify their guidelines for plans to be consistent with forest stewardship. The conservation reserve program—future sign-ups—were incorporated into the stewardship plans. Participation in the stewardship program is voluntary, plans are developed working closely with landowners to incorporate their objectives on a site-by-site basis.

Experience indicates that landowners have objectives far beyond a narrow objective of growing timber or just commodity production. They are interested in multiple-use values. So these plans address fish and wildlife habitat, water quality, recreation activities, in addition to the timber activity.

For example, in Minnesota, our stewardship plans are specifically developed with regional landscape goals and concerns in mind—an ecosystem approach. Each of our forest stewardship plans contain an ecosystem map of the State of Minnesota, the landowners land is pinpointed on the map, the values of that particular ecosystem are laid out, and the landowner is given an opportunity to help contribute toward those ecosystem goals and, in most cases, landowners are very anxious to do that.

Our stewardship plan preparers are required to be extensively trained in order to do that, in other words, to be certified. Our most recent requirement included biodiversity and ecosystem considerations in stewardship plans. It was very interesting to find that we had scheduled three workshops to train our plan preparers and had to add two additional workshops just to accommodate the interest in that new twist on stewardship planning.

Landowners with approved plans in stewardship are eligible for cost-share assistance for the forest stewardship program to implement the plans. I would note a major difference between the plans and those developed under this legislation. Stewardship plans do not place any form of regulatory requirements on landowners. On the other hand, H.R. 1440 is trying to consolidate regulatory requirements that landowners must already meet.

Another unique component to the forest stewardship program is the delivery process. It is based upon working in partnership with existing agencies, organizations, and programs, and the success story is based upon establishing standards and guidelines and then empowering partners to carry out those standards and guidelines assuring that they are accountable to those standards and guidelines. This takes place, not just at the national level, but mostly at the State and even local levels.

A State stewardship committee is called for in the legislation, and that committee is comprised of a full range of stakeholders in forest interests from the forest industry, landowners, State, Federal, local agencies, environmental groups. In our case, Audubon and Nature Conservancy are very active members of the State stewardship committee.

Another model would be the urban forestry program which has an urban forestry council comprised of the same range of stakeholder interests in that program.

By approaching the planning and the work in such a manner, duplication, technical staffing, and program implementation is avoided. The National Association of State Foresters believes that this is extremely useful as a model through which the Federal Government provides efficient and cost-effective services to the public.

We encourage this committee to consider the forest stewardship program as a model for the legislation under consideration today.

Just a few specific comments, or concerns. We strongly believe that it should be the primary policy of USDA to promote the integration and coordination of all natural resource managers and regulations at every level of government to ensure that the landowners receive comprehensive advice.

This should occur in particular among USDA agencies. Integrating and streamlining will be an incentive for landowners to practice good stewardship on their lands, whether agriculture or forests. Policies should be friendly and flexible to allow for State needs and constraints. State foresters and USDA agencies have already initiated efforts in some States to make forestry plans part of the total farm plan.

These kinds of efforts need to be encouraged. We think it would be important to consider incentives that would be effective in promoting integrated comprehensive landowner plans.

Forestry, as well as fish and wildlife, and water management expertise is generally available through State and local agencies and the private sector. These organizations need to be knit together in order to provide an effective delivery of services, whether it be planning or implementation of the plan.

NASF is very concerned that, as written, the legislation preempts a system that is now effective in delivering services to private forest landowners. Both the forest stewardship and steward-

ship incentives programs are USDA programs that provide technical and cost-share assistance. Neither imposes regulatory requirements. Caution should be exercised so as not to create a new delivery system with new expertise and completely different orientation when an effective delivery mechanism already exists.

Therefore, we recommend that the scope of this legislation should specifically exclude State and private forestry and cooperative forestry programs of the USDA Forest Service.

Because of the complexity of environmental protection, conservation, and cost-share incentive laws involving so many different Federal agencies mentioned earlier today, to consider giving one agency such authority seems unrealistic, costly, and would likely duplicate services.

NASF would also point out that many State agencies are probably prohibited from transferring their authorities to another government entity without specific legislation.

The Soil Conservation Service may be the appropriate lead agency within USDA to develop criteria, standards, specifications, and regulations for agricultural plans required by Federal law and regulations, but the priorities, the criteria, standards, and guidelines should be developed with full participation of Federal, State, and local agencies, the stakeholders, as was mentioned by Mr. Geddes.

We also believe that the words "consult with Federal and State agencies" are not strong enough to ensure adequate cooperation.

This bill has the potential to generate a large volume of new or revised plans to bring existing documentation into line with regulations which will be written. Consolidation does not necessarily equal simplification, and in order to implement something like this, the centralized control approach will be costly and ineffective.

We need to be looking at a decentralized approach involving partners in order to do it in a cost-effective way. We know we have limited resources, and those resources need to be used effectively and we need to use models that have demonstrated an ability to involve partners and minimize cost in carrying out these attempts.

Finally, just a few quick recommendations. We look forward to working with the committee to accomplish the objectives sought under this legislation and we encourage the committee to consider the following recommendations.

H.R. 1440 should be clarified that it is not intended to affect programs of the Forest Service and avoid statutory complications with State and local government forestry laws and authorities. In order to do that, we recommend that the definition of agricultural land be modified. We have the specific statutes mentioned in our written testimony that we are recommending here.

We recommend strengthening regional, State, and local mechanisms to address conservation issues on a case-by-case basis, a collaborative process rather than a legislative process.

We support efforts within USDA and within State government to better coordinate overall programs, but believe this can be accomplished through administrative process and regulations rather than law. We recommend that the criteria and priorities for site-specific plans be developed with appropriate stakeholders including State and local governments.

It is important to recognize that, in some cases, individual plans may be written by individuals or organizations other than Federal employees: For example, State or local government, soil and water conservation districts, agricultural consultants, and agribusiness employees.

In conclusion, while the State foresters support the concept, we have serious concerns that, as written, H.R. 1440 would disrupt the system that could otherwise serve as a model to achieve its objectives. We look forward to working with this committee to seek ways of using existing partnerships with the USDA and empowering other State and local agencies and organizations to work with the Federal Government in meeting the needs of the American people.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Rose appears at the conclusion of the hearing.]

Mr. ENGLISH. Thank you.

Mr. Shea.

STATEMENT OF ERNEST SHEA, EXECUTIVE VICE PRESIDENT, NATIONAL ASSOCIATION OF CONSERVATION DISTRICTS

Mr. SHEA. Thank you, Mr. Chairman. I am Ernie Shea, executive vice president of the National Association of Conservation Districts. I appreciate the opportunity to testify.

As you may know, as has been previously stated, we work in partnership, very close partnership with the Soil Conservation Service and a wide variety of other State and Federal agencies delivering conservation technical assistance to landowners.

Today in conservation districts we employ upwards of 7,000 employees. Those employees work with SCS's, approximately 7,000 field based employees, so we have a total workforce of 14,000 individuals. It sounds like a big number. It is a lot of people, but it actually pales in comparison to the workload that we collectively are attempting to address.

Nationwide, our districts focus most of their energies on about 2.5 million farmers, ranchers, and folks we call cooperators. Those individuals control about 1 billion acres of land.

So when you evaluate workloads, it is important to keep in mind the available workforce out there to do the expanded work that we all recognize needs to be done.

With respect to H.R. 1440, we are very supportive of the bill. For years we have recognized the importance of trying to move toward holistic natural resource management planning, we have long advocated site-specific comprehensive natural resource plans.

The concept oftentimes is somewhat frightening to the landowners that we work with. They fear that a master blueprint will be written that dictates how they use the resources on their farm or ranch, but our real objective is to be sure that all resource concerns are considered in an integrated way.

In recent years, we have found ourselves increasingly chasing very narrow specific programs with very important goals and objectives, but they tend to move us away from the holistic approach that I believe this bill takes us toward.

We are now developing erosion control plans, sediment control plans, water quality plans, pesticide management plans, wetland

restoration plans, erosion abatement plans, the list goes on and on. You have had testimony to that effect. They are all important plans but we are missing an opportunity to integrate those plans.

Our employees that work side by side with SCS and other agencies developing plans working with landowners are becoming increasingly more frustrated. You have heard testimony from producers and land managers about their frustrations.

I think our concern is that we have not taken enough time to step back and evaluate how these plans come together. We think it is time to do so and this legislation helps. It is time to ask is our objective to develop conservation plans or is our real objective to get conservation practices implemented on the ground? We think it is the latter. We need to take another look at how we are going about that.

As supportive as we are of the legislation, there are a couple of points that I would mention. The first one is one that Roland Geddes mentioned, that is the plan approval responsibilities for this type of comprehensive plan.

The bill is silent as to who approves these local plans, and we recommend that local conservation districts be given that authority. Conservation districts for the past 50 years have been the approving body for the vast majority of resource management plans that have been developed under Federal, State, and local law and we think that the district approval provides an important check and balance.

Districts are local units of government. They are controlled by locally elected or appointed farmers, ranchers, concerned citizens, and it provides an opportunity for local citizens to have a very direct way to participate.

If we delegate to a Federal agency the responsibility to develop the plan, enforce the plan, and approve the plan, you lose that check and balance opportunity. We think that is an important addition that we hope you consider.

The second concern that we have has also been discussed and that relates to the workload and to the timeframe. Frankly, we think that the timeframe outlined in the proposed bill is unrealistic due to everything else we have on our plate in the short run. I am not sure what a realistic timeframe is, but we would be glad to explore that issue with you.

I am not aware of anyone that has done a very careful analysis of the workload impact that this bill would create. When you evaluate State and local responsibilities, we have a very large number of potential plans that would be consolidated and we are working on that now and would be glad to share the results with you.

A third concern we have really relates to the driving mechanism behind the next generation of conservation programs. In our judgment, we think it is critically important to expand the voluntary incentive options the Government uses to work with producers. Conservation compliance provisions of the 1985 and 1990 farm bill are important tools, but they only touch a fairly narrow group of producers. Producers that do not participate in USDA programs, for example, are not touched by that particular vehicle.

We think the producers respond best—we know they do—with education and incentive driven mechanisms. We suggest that some

environmental credit mechanism could be incorporated into this legislation to further encourage producers to apply good conservation practices. Those would have to be partnered with State and local provisions, such as provisions of reduction on local property taxes or income tax, we think could be explored and added to this bill to add strength.

The last concern we have has to do with the impact that the re-organization of USDA will likely have on this particular program. This is an issue that I know you mentioned in some of your earlier comments. It is an issue that we are very concerned about because we are uncertain as to how USDA's conservation delivery system will fare in the Secretary's and President's plans to reorganize.

The farm services agency concept sounds good but how conservation fares in that new agency is a major concern of ours. We are also greatly concerned with the proposal to reduce staffing in that agency by 23 percent. That comes at the same time when we estimate that we need a minimum of an additional 10,000 positions at the field office level to address the full range of programs and responsibilities that are being passed down to Federal, State, and local governments.

We think USDA must maintain a very strong conservation focus and this bill provides that focus, but we don't know what the delivery system looks like inside the agency. So we urge this committee to take a careful look at that proposal that is directed through an appropriation process.

Thank you very much, Mr. Chairman. We would be glad to work with you in any capacity that we can.

[The prepared statement of Mr. Shea appears at the conclusion of the hearing.]

Mr. ENGLISH. Thank you. I appreciate that. I agree with you with regard to the question of delivery and making sure we have proper resources to carry that out.

Obviously, any reorganization proposal will have to come to this subcommittee for our evaluation and that is one issue that I will try to underscore for the subcommittee, the importance that we make sure we have adequate resources to do that.

Beyond that, I am not sure what impact, if any, this legislation has as far as reorganization, but you have a very good point there. I will try to deal with that.

Mr. PETERSON, you were talking a good deal about the question of States delegating their authority or requiring them to delegate their authority. I recall in the billing there is no requirement that States do anything. They don't have to participate, don't have to do a thing if they don't see fit. Do they?

Mr. MAX PETERSON. No, you made it discretionary, but the point is that I think we are setting up an unrealistic expectation that this single comprehensive plan is going to cover everything the farmer has to be concerned with.

I think if the farmer gets this single comprehensive plan and thinks that it covers everything, in fact, it doesn't. It doesn't cover the States' requirements for air quality, water quality, wildlife, and so on. Then we can find some of the same problems of the *Missouri* case cited this morning where a farmer talked to SCS and went out

and did something that turned out to be something that was a problem with the Corps of Engineers.

I was asking the real question, is it realistic to delegate upward to the Federal Government some basic responsibilities of the States?

Mr. ENGLISH. I think what you come down to is that it is up to the States to make that decision. Obviously, if the States want to do that, then I am certainly not going to have a problem with that. I don't know that the Federal Government does. I think it is important that the States, as they come up with their particular proposals, laws and so forth, that they have the opportunity at least to link together with a single approach through the Federal Government.

As I pointed out earlier, this is not even requiring that other Federal agencies participate. It is voluntary as far as any of it. We are hopeful it will be used because of its merits. That is the point I would make, that we are making this proposal in some way to try to bring some sense to all of this stuff.

Now, if we have a State agency or anybody that doesn't want to participate, obviously they don't have to. If they don't like the way it works, that is up to them. Obviously that is not a part of the overall proposal.

But I certainly don't want to leave the impression on the record that there are any kind of requirements for the States to do anything that they don't want to do. They don't have to do a blooming thing.

Mr. MAX PETERSON. Let me try to be sure we are communicating here. I think it might be realistic to have the SCS cooperate with the States in developing a plan in which it would be subject to the agreement by all the parties which would include the States, but I think it is unrealistic to expect the States to delegate to the SCS. I also think your bill, which requires that any farmer out there wanting any assistance of any kind, goes through SCS is a problem. For example, if I want some assistance and I am in Colorado and I know that the State fish and wildlife agency in Colorado has a landowner assistance program, I don't want to have to go through SCS to get that assistance.

Mr. ENGLISH. Let's back up just a little bit. I don't think that is what the legislation is saying, that they can't go through the Colorado Fish and Wildlife or anybody else he wants to. What it says is, if in fact he is going to participate in the farm programs, and as these programs apply to the USDA programs we have in there, then he goes through the Soil Conservation Service for that as far as USDA is concerned.

Now, what we are talking about here are basic farm programs. As I said, there is the question of anything beyond the doors of USDA even within Federal agencies, much less State and local agencies, it is going to be entirely up to those agencies to work any kind of an agreement. You are absolutely right.

You are talking about a cooperative agreement and understanding. If they wish to participate, fine. I guess what troubles me a little bit is the way I interpreted your characterization is that somehow this legislation is requiring a State to delegate its authority which is absolutely incorrect.

Mr. MAX PETERSON. No, I never thought that about the bill. What I am suggesting to you is I think you could improve your bill by having the SCS as the lead agency to prepare a plan that is agreed to by several State and Federal agencies. I think the idea that SCS then somehow approves this whole thing, even though other agencies might not agree with it, is unrealistic.

Mr. ENGLISH. But I would make the point, as I said, I think, a couple times, I know I have today once, and I thought I did yesterday. The point I am making is, before any kind of understanding or any type of action can take place as far as Soil Conservation Service outside of USDA is that there has to be cooperative agreements.

How SCS or EPA or whatever work out whatever agreement with respect to a particular law, that is up to them. Whatever they want to include and agree to is fine with me. The only point I am making is, though, that there is nothing in this law that requires EPA to do anything or carry out any kind of action or in any way change any law that is in existence today.

It does give them the authority to link up if they would, as far as the USDA is concerned, and work out any kind of agreements they wish and how they wish to implement it and how they wish to work it out. That all has to be contained within the agreements. That is the point I was making with Mr. Allard who I would think would like to.

It has appeal to me, but it is not in this bill, require EPA to allow the Soil Conservation Service to carry out any law in EPA or any other agency of the Federal Government in providing a single plan for carrying that out.

That has to be done through agreements and it has to be voluntary. That is what I want to stress.

Mr. MAX PETERSON. I don't think you can do that, Mr. Chairman. You can't transfer basic authority in law through cooperative agreements.

Mr. ENGLISH. I am not suggesting you do that. This bill does not do that.

Mr. MAX PETERSON. No. What I was suggesting to you and what Mr. Allard was trying to suggest, I think, is I can see a plan signed off on by SCS and the State wildlife agency or two or three other people that agree to it, in which case it incorporates what they have all agreed to and they have not been asked to transfer authority to SCS. That is the basic defect in the bill, asking agencies to transfer their basic authority to SCS. I don't think it will happen.

Mr. ENGLISH. I don't think that is the intent of the bill. There is transfer within USDA. There is not transfer. If I remember, there is nothing in this bill that requires transfer from any other agency.

Mr. MAX PETERSON. Unless there is some cooperation, your bill won't work. You won't have a single comprehensive plan.

Mr. ENGLISH. The point you are making is what I am stating. There has to be agreement reached between the agencies or any State or local government agency between them and the SCS and any agreements that they work out. There is nothing in the bill that requires them to transfer anything to the Soil Conservation Service or USDA.

Mr. MAX PETERSON. I think maybe we are in a semantics argument, but what I am suggesting is, basic approval by the agencies with the authority, you are suggesting they transfer authority through some cooperative agreements. I am saying I don't think they can do that.

Mr. ENGLISH. I would envision in any agreement reached that you would have representatives of those agencies that would be part of any kind of approval of any kind of plan. That is what I would expect.

I don't think that you are going to get EPA or any other, whether it is the Fish and Wildlife Service or anybody else, that will agree to any cooperative agreement unless they do have a representative of their agency part of approving any plan.

Mr. MAX PETERSON. That is why I am suggesting you would have to have that. I am suggesting your bill doesn't provide that mechanism.

Mr. ENGLISH. No. That is intentional because we, frankly, would expect that would be part of any kind of a negotiated agreement between USDA and anybody else.

We could write that in, but frankly I don't know that that would be wise. I prefer to give them as much leeway as we can in reaching understandings they may wish to reach.

Mr. Allard.

Mr. ALLARD. Thank you. I feel compelled to comment since both my name and my State have been mentioned in this discussion.

Mr. ENGLISH. Both in a favorable light, I might add.

Mr. ALLARD. I want to clarify my position for the record on the appeal. I am looking to ASCS to resolve the conflicts between producers and SCS. I am not looking at the total agency. I recognize that each agency has their own rules and regulations that they have to deal with. I made that comment in relation to the testimony that we have received from the American Farm Bureau Federation, specifically Mr. Kleckner.

My comment, as far as the States are concerned, is if you look at Colorado right now, they are looking at every place they can to make their operation more cost efficient. They are under a citizen mandate to cut back on spending, so they are looking at cooperative efforts they can take to try to cut back State costs.

If Mr. English's proposal should pass and it provides an economic incentive for them to cooperate with the Federal Government, shared—whatever, as to operating a single State office free from full funding from the State—it would be a shared cost—I think the States, like Colorado, would look at that very seriously.

I wanted to talk to you a little bit, Mr. Rose, about your testimony. You had indicated in your recommendations that you wanted to exempt the Forest Service and Cooperative Forest Assistance Act of 1978. I looked into the legislation and you refer to it as 1978, the bill says—sorry, it is the Forest and Range Reclamation Management Act of 1978. We look in the bill and we have the Forest and Range Reclamation Management Act of 1974.

Are there different acts, same title, but different years? I wonder why that discrepancy. Is there a problem technically or what?

Mr. ROSE. Mr. Chairman, Representative Allard, I think we mean the same thing there. I would have to check the records, but we could have a wrong date in there.

Mr. ALLARD. If this is a voluntary program? Why is it you want an exemption?

Mr. ROSE. If H.R. 1440 is voluntary?

Mr. ALLARD. Yes.

Mr. ROSE. We believe that it is important to integrate planning at all levels in that the stakeholders and the agencies and entities involved need to be—to have equal authority in that process to implement programs because there are a variety of programs at the State and Federal level.

Just to say they can participate if they want to and then have conditions of participation that discourage participation isn't good for the overall concept of trying to get a holistic comprehensive plan for the landowner.

Mr. ALLARD. I guess that is why I don't understand your concerns. From what I understand, the testimony was explained by the sponsor. This is basically enabling regulation that allows agencies to cooperate if they so desire. You are saying you would like to be in that position to be able to be part of a master plan and you are asking for exemption from this piece of legislation. It almost seems like you are contradicting yourself. I am trying to figure out why.

Mr. ROSE. Representative Allard, our major concern is that those programs, as currently delivered, are some of the most cost-effective programs that involve stakeholders. And to give another agency authority over that, not knowing how that authority will play down in the execution of plan development or program implementation, creates some problems.

Someone mentioned—I think it was Mr. Peterson mentioned earlier—the devil is in the details and the details are not here. That is where our concern is.

Mr. ALLARD. But the bill doesn't say you have to do that, if I understand it, the way I read it and the way I hear the discussion. There may be some misunderstanding.

Mr. ROSE. The bill doesn't say you don't have to do it either. That is the problem.

Mr. ALLARD. If you want to say in there that the Forest Service doesn't have to cooperate with other agencies—do you want that? That is the way I interpret your comments. Maybe that needs clarification.

Mr. ROSE. Representative Allard, that is contrary to my whole testimony. The whole testimony is based upon willing stakeholder participation and cooperation to achieve some objectives of integration and the holistic approach for the landowner so he doesn't have to go to many agencies.

Mr. ALLARD. Back to my question: So why do you oppose the bill if it allows that to happen?

Mr. ROSE. Representative Allard, we wouldn't be in opposition to it if these things were spelled out and we knew how they would play out.

Mr. ALLARD. You are asking for exemption in the bill.

Mr. ROSE. We are asking for exemption unless it can be handled some other way. The exemption doesn't mean we won't continue to cooperate. SCS, for instance, is on the State stewardship committees and they are a very active player in it.

I am scheduled to go with the State conservationist next week on a day-long trip to look at programs. We work together very closely. We are not saying that won't continue and that we won't try to strengthen that. It is just that we don't want effective programs, effectively delivered programs, a mechanism created that will hamper the effective delivery of those.

And a new system has been established that is unproven as it is laid out and doesn't have a track record to show that it can be as effective in the delivery of these stewardship and urban forestry programs.

Mr. ALLARD. Somehow I am just having a hard time that this is permissible. It is not mandating that agencies have to take that over. Maybe we can talk about this at a later date and not take up the valuable subcommittee time.

Thank you, Mr. Chairman.

Mr. ENGLISH. Thank you, Mr. Allard. I thank our witnesses. Thank you for appearing before us.

Our last panel today is Ms. Maureen Hinkle, director of the agriculture policy of the National Audubon Society; Mr. Ken Cook, vice president for policy for the Center for Resource Economics; and Dr. Robert Barnes, executive vice president, American Society of Agronomy.

Again, if you would summarize, without objection, your complete written testimony will be made a part of the record.

Thank you, Ms. Hinkle.

**STATEMENT OF MAUREEN KUWANO HINKLE, DIRECTOR,
AGRICULTURAL POLICY, NATIONAL AUDUBON SOCIETY**

Ms. HINKLE. I will depart from my written statement.

As I understand H.R. 1440, it is really kind of like a dream come true. It's what everyone wants. Farmers wouldn't have to worry about everyone coming on their farms with all kinds of requirements and they would only need one plan, they would have consistency and it would be credible, in fact so credible and so comprehensive that all agencies, whether Federal, State, or local, would want to have their programs merged or coordinated with this single site-specific plan.

I think it would be a great boon if this would happen. It would bring efficiency to the Government and many problems like agricultural pollution, ground or surface water, wildlife, would all be co-ordinated in one plan. What worries me is how we get to that place. It is an easy and a good first step to bring existing plans into a particular farm site, but that is the easy part.

Are there enough experts who could develop this comprehensive holistic plan for the farmer? Are there enough, even for the current plans that are in existence now?

Are there sufficient evaluation mechanisms to track progress because, without progress, we won't know if it is really working?

We need to evaluate even the existing programs to see whether some of those need to continue to exist, whether some should grow, or be a phase-in or the first step.

We also have to worry about self-certification because, currently, farmers are allowed to self-certify for conservation compliance and it is really not working.

We have to worry about the SCS credibility. They were put in the center stage of farm programs for the past 8 years and their record has not been all that stellar. It has not inspired confidence by other agencies, let alone some of the local agencies.

As you know, some of these agencies are pointing fingers at each other. They go before Appropriations and say conservation compliance has not been totally enforced, it is not our fault. You have to ask the other agency.

Tucking existing programs into one package doesn't make a comprehensive package, and calling it whole isn't going to make it whole.

If we allow SCS to tuck everything together and decide which program to subsidize, then that wouldn't put SCS in a very popular position.

Then there is the plan itself. In order to make the plan happen, it will have to be solid, substantive, a total plan that will help farmers maximize profits, better manage all the farm elements, help the farmer to measure his progress and to assure all involved entities that he is meeting goals and objectives set for him.

I set forth in my testimony various technologies and strategies in place now that could be a part of a total plan. I think we have to be concerned about encouraging such technologies to be part of this plan instead of just looking at what is in existence right now in the plans that farmers have.

I am also worried that expectations will be raised so high that a lot of farmers will think they won't have to worry about anything else. We don't want that to occur either.

Finally, I want to touch on liability. As Shakespeare says, "There's the rub."

If farmers are to be immune to liability, then they need to have in place the means to be immune and in our view, recordkeeping, on the part of farmers, is one essential part of any plan that would enable any kind of liability waiver.

Any good comprehensive plan would require comprehensive recordkeeping, meaning all aspects of his farm, from pesticide and nutrient use to water conservation and quality, credit, and debt, cropping practices, and so forth. But a solid plan with verifiable reductions in use of leachable chemicals could provide a limited waiver for cleanup of water supplies. But a broad inclusion of a liability waiver is unlikely for the reasons that have been stated by previous witnesses.

So I will let my comments stop there.

[The prepared statement of Ms. Hinkle appears at the conclusion of the hearing.]

Mr. ENGLISH. Mr. Cook

**STATEMENT OF KENNETH A. COOK, VICE PRESIDENT, POLICY,
CENTER FOR RESOURCE ECONOMICS**

Mr. COOK. Thank you, Mr. Chairman. I appreciate the opportunity to appear before you. We consider at the center this bill, and the hearings that you have held, to be the opening round of debate on the 1995 farm bill.

We very much like your vision for developing a more comprehensive approach to resource management and environmental protection. Once again, you have tried to take on the status quo here and we don't always agree with you on just which direction you are going, or on the details anyway. But we like the direction.

I wanted to just summarize my testimony briefly. We didn't go into a great deal of detail in our comments. We want to associate ourselves with Robbin Marks' comments that she delivered before the committee in early April. I thought that was fine testimony.

Second, we are in the process of trying to do some analyses that really came about in our work plans as a result of conversations with you about future directions in agricultural policy. We think there are three or four layers, of which your bill here is one, to be looked at as we move into this next era of agricultural policy. We need to have some sort of analytical foundation that looks at the distribution of environmental problems nationwide on America's farms and some sort of ranking scheme, prioritization scheme, very much like EPA did with its Science Advisory Board.

Really, what your legislation is beginning to touch on is the very thing that preoccupying thinkers in all kinds of environmental pollution control areas, which is the integration of planning, permits, trying to develop a single-minded approach that deals with multiple problems as they change. So we salute that, too.

We also need to look at the distribution of agricultural assistance, both technical and financial. There is tremendous diversity, even around this subcommittee, in terms of the amount of agricultural assistance that USDA provides. I know that as you contemplate plans that have real incentives behind them, you are going to be concerned with how the pie gets sliced.

Are new problems going to come in that will move money in different directions? How will the politics play out? What is fair? What would the priorities look like if we look closely at resource and environmental concerns. We are looking at that, too.

And, finally, program integration. Your bill has served a great purpose there, I think, in giving everyone focus for debate about the pending USDA reorganization, meshing of programs that should appear before integration of agencies. I will not talk in detail of those today, but those are the general things we need to be looking at.

On the question of site-specific planning, we are very much in favor of it. I think as the debate on the Clean Water Act and other Federal statutes and the 1995 farm bill comes along, you will see the environmental community pushing for site-specific plans very much.

What I am surprised about, always, is when we hear agricultural groups say they want site-specific plans and we say, OK, we agree with that, "What are you doing on the farm with pesticides?" They say, "none of your business."

So I am in favor of being site-specific and really looking at those issues at the farmer's level and trying to understand them as he sees them. But to be able to do that, we really need to have more trust and understanding of what the purpose of this whole thing is.

The pesticide recordkeeping provision that got so carefully through in the 1990 farm bill never left shore. It is still in the Department, I think mainly because so much object opposition from the farm community about even having to keep records or report anything about it was a problem.

We spend a lot of time talking about the SCS conservation planning. I know the furthest thing from your mind was to make it the SCS Bureaucrat Full Employment Act for the next millennium, but you could be on the verge of that if you are not careful.

We looked at the agency's planning. I looked at it for the American Farm Trust about a decade ago and, at that time, we found tremendous emphasis on multiple resource comprehensive, whole farm planning. I don't remember the exact number, but I seem to remember something like 600 million acres of comprehensive whole farm plans had been developed at that time.

In the 1985 farm bill debate, everyone said, "Wait a minute it is the Soil Conservation Service, we don't have the plans in place yet. Let's get specific and take care of the priority problems." So in your thinking about that, that is why the priority setting is so important.

Let me close with an idea here that might make sense in the reconciliation process. What would be the prospects of taking portions of your bill that would provide for integration of farm planning in key areas like water quality and wetlands—and the water quality incentive bill that you drafted in 1990 is a good start—for integrating a whole range of Federal laws under one comprehensive water quality plan?

What would be wrong with trying to allocate money out of the committee's mark as it moves out of reconciliation to really begin funding a limited amount of a pilot program to do some integrated resource planning in key areas, perhaps Chesapeake Bay, perhaps in an area that has severe wetlands conflicts between the Corps and USDA. Put money into an incentive program that would perhaps provide an early test of some of the principles that you have in the bill.

[The prepared statement of Mr. Cook appears at the conclusion of the hearing.]

Mr. ENGLISH. Thank you, Mr. Cook.

Dr. Barnes.

STATEMENT OF ROBERT F. BARNES, EXECUTIVE VICE PRESIDENT, AMERICAN SOCIETY OF AGRONOMY, CROP SCIENCE SOCIETY, AND SCIENCE SOCIETY OF AMERICA

Mr. BARNES. Mr. Chairman, members of the committee, I am Robert Barnes, executive vice president of the American Society of Agronomy, and Crop, and Soil Science Societies of America. We have over 12,000 members that are involved in the education and research in crops, soil, environmental aspects, including applied professionals. Among the many activities and programs of the

American Society of Agronomy, it also provides, as a membership service, a certification registry for professionals in soil and plant sciences.

I wish today to provide you some information about one of our most recent certification programs, the certified crop advisory program of the American Society of Agronomy—ASA. We believe that the certified crop advisory program, referred to as CCA, can improve the quality and consistency of technical information made available to farmers.

Before describing the CCA program in more detail, I would like to comment briefly on what I see as important aspects of H.R. 1440. First, we really commend you, Mr. Chairman, for attempting to consolidate the farm soil, water, and environmental plans in one USDA agency.

We believe that the Soil Conservation Service working with its sister agencies of Extension, ASCS, and ARS, particularly, can coordinate development of whole farm plans. You have heard pros and cons for that.

We support the bill's focus on site-specific solutions to conservation and water quality, agricultural nonpoint source pollution, and other aspects. The diversity of American agriculture makes this a logical approach for developing conservation plans.

Most importantly, we applaud the effort to provide a framework in the bill for agriculture to address its environmental challenges. American agriculture has a responsibility to develop agricultural systems that are productive, efficient, and protective of our soil and water resources.

We believe the bill can bring the agricultural public and private sectors together to meet these challenges.

It is this spirit of cooperation that has driven development of the CCA program. To meet the goal of providing farmers with consistent sources of information, the American Society of Agronomy has worked with the U.S. Department of Agriculture officials and Federal agencies, agribusiness, independent crop consultants, and universities to develop a voluntary program to certify the knowledge, skills, and abilities of crop advisers.

We strongly feel that agriculture must develop as a profession that can provide a wide range of services to farmers. By developing professionalism in agriculture, we can have a powerful tool to gain the public's trust of our agricultural community as stewards of the land.

The CCA program, we believe, is a first step toward a professional track for agricultural services. The certification standards for the program are set so the applicants must demonstrate that they understand the basics of soils and soil fertility, soil and water management, pest management and crop growth and development.

The program is administered at the State level with ASA acting as the managing partner. To date, we have implemented this program in seven States and 790 applicants have taken the first exam. The next exam will be offered in August and we expect that 15 States will be participating. Once certified, a registrant will be required to participate in a continuing education program with a minimum of 30 hours of training per year.

We hope that as you continue to debate H.R. 1440, you will consider the impact of a voluntary program such as the certified crop adviser program. Farmers will need assistance with developing the whole farm plan.

We believe that individuals in the private sector who enter professional development programs such as CCA can be a valuable resource in both writing and implementing the plans. The public sector has a responsibility to process, evaluate, and approve plans in a timely manner to ensure that sound management practices can be put in place which meet the objectives of the plan.

The certified crop advisers, we feel, can be a tremendous asset to balance the workload between the private and public sectors ensuring that farmers have the timely assistance needed.

In conclusion, I thank you for allowing me to speak to the committee and I would like to offer for the record some information regarding the CCA program and a letter of support for the program from a number of Senators from farm States.

We want to thank you for the leadership that you are providing agriculture in addressing the environmental challenges before us.

We believe that we are on the first step toward being able to resolve some of these issues and we thank you. I will be happy to answer any questions.

[The prepared statement of Mr. Barnes appears at the conclusion of the hearing.]

Mr. ENGLISH. Thank you, Dr. Barnes. I appreciate your testimony. It is very helpful to us.

Ms. Hinkle, the only point I would make with regard to your testimony is that, as I said earlier, this is a beginning. I don't expect that we will have every single law within the Federal Government, much less State and local governments that would be in some way linked into this overall plan.

I think we will have some included, we will have some that won't. Any step that we make, however, simplifies the problem, certainly from the standpoint of the farmer and it simplifies it and makes a good deal more sense from the standpoint of any goals the Nation may have. So I think it is a very key point that this will be an evolutionary process, not instantaneous, all of a sudden we got everything combined into one shop and that is the way it will go. I don't think we have that capability now.

I would imagine that it would be a near impossibility to get every single agency to work out those agreements within a short period of time. I think it will be a long time coming.

The liability issue can only apply, again, in those cases to the laws specifically that are being implemented under an overall plan, and with those agencies' approval, I might add. The only thing we are attempting to get at is if we can provide some protection in those specific cases in which the laws have been implemented as was required by the particular agency.

If that changes, as I said earlier, if we have changes that come about in the plan, errors that are made that force changes, obviously if the changes are not carried out, there is no protection on the liability. It is only in those cases where the farmers acted in good faith in following the directions of the specific agency.

It does not apply to any law or any provision of the law that is not part of that overall plan or part of the agreement that is reached between an agency and the Federal Government. So I think it is a much narrower protection than what some have feared by this one provision that we are not opening up the door and saying a farmer cannot be sued for anything. That is certainly not the intent.

We will make sure that the legislation moves along, and that it is clear what that applies to.

Ms. HINKLE. I have attached to my testimony some analyses done on liability. In regard to other environmental statutes, farmer liability waivers have come up in those pieces of legislation, and how that has played out at the Federal as well as the State level would be of keen interest to you to see that farmers at the State and Federal level have sought to be immune to liability in regard to other statutes. This is not a new area by any means and it is a matter of controversy with these other statutes and they are all different in different ways.

But I did attach this so that you would have it for the record.

Mr. ENGLISH. Thank you, I appreciate that. I think it is very helpful. That is one thing we want to make sure that it is very clear exactly what this does and what this does not do. We want to make sure that farmers are not under any illusions as to what protection is there.

Ms. HINKLE. That is what I worried about, that they might assume that they had all the liability waivers that they have wanted for so long in this one plan and that would make them rush to it and then they would find out that it didn't grant them full immunity.

Mr. ENGLISH. Good point. We will try to make sure it is clear as to what needs to be done and that clarification is given to farmers.

Mr. Cook, certainly the priorities I agree with. I think that makes a lot of sense. You are right, this is exactly what the thrust of this legislation is, hopefully, forcing this country to make some determinations on its priorities. What we have had determining our priorities is what money has been available to implement the various programs. And as we discussed many times, there are provisions of the 1990 farm bill not being carried out which this subcommittee intended to be carried out.

Unfortunately, this subcommittee has no say as to what is priority and what is not or where the funding goes. There is another committee with that jurisdiction.

I have to say I am somewhat frustrated as to how we deal with that. I suppose that we on this subcommittee could start canceling out some of the laws that we have on the books in a method of prioritization, but that would send the wrong message and that is not exactly the answer to that question. I think you are right, we need to move in that direction, particularly with respect to incentives to farmers in determining where we want to put the resources. That is a very good point.

As far as site-specifics, that is what it is aimed at, making sure that we do achieve the goals. It is going to require, of course, obviously people other than people on this subcommittee or other committees of Congress to specify what the priorities will be. It will

likely have to be some agreement, and perhaps there should be legislation encouraging some kind of coming together of various Federal agencies and trying to prioritize what our objectives should be over a 5-year or 10-year period. That would be extremely helpful to us all the way around. That is a very good point.

I thank you all for your testimony. I appreciate it.

Mr. Allard.

Mr. ALLARD. Thank you, Mr. Chairman. I would also like to thank you for your testimony. I don't have any questions or comments for this panel.

Thank you.

Mr. ENGLISH. Again, this concludes the hearing with regard to this legislation. We will attempt to digest all the fine testimony that we have received and suggestions and see if we can come up with a package of recommendations that perhaps will meet some of the very legitimate points that have been made.

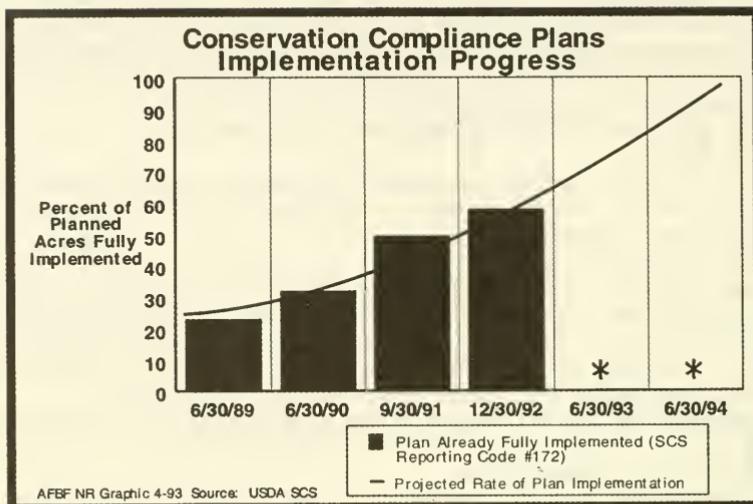
I deeply appreciate the testimony of everyone who has come before us and I guess we will probably see you at the markup.

Thank you, thanks a lot.

This hearing is adjourned subject to the calling of the chair.

[Whereupon, at 12:55 p.m., the subcommittee was adjourned, to reconvene, subject to the call of the Chair.]

[Material submitted for inclusion in the record follows:]



**STATEMENT OF AMERICAN FARM BUREAU FEDERATION
TO THE HOUSE AGRICULTURE SUBCOMMITTEE
ON ENVIRONMENT, CREDIT AND RURAL DEVELOPMENT
REGARDING H.R. 1440,
SITE-SPECIFIC AGRICULTURAL RESOURCE MANAGEMENT ACT OF 1993.**

Presented by Dean R. Kleckner
President
American Farm Bureau Federation

April 21, 1993

STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION TO THE
SUBCOMMITTEE ON ENVIRONMENT, CREDIT AND RURAL DEVELOPMENT
OF THE HOUSE COMMITTEE ON AGRICULTURE
REGARDING H.R. 1440,
SITE-SPECIFIC AGRICULTURAL RESOURCE MANAGEMENT ACT OF 1993

Presented by
Dean R. Kleckner, President
American Farm Bureau Federation

April 21, 1993

Thank you Mr. Chairman. My name is Dean Kleckner. I appreciate the opportunity to speak on behalf of the American Farm Bureau Federation on this important topic. Site-specific soil and water conservation is of great interest to Farm Bureau's four million-plus member families. Mr. Chairman, we appreciate your efforts to help consolidate the paperwork that faces farmers and ranchers who are trying to be good stewards of their natural resources.

The increasing complexity of this issue has made it a priority for farmers and ranchers over the last few years. We also note that Congressman Oberstar is drafting legislation to amend the Clean Water Act to make federal mandatory water quality farm plans site-specific. We hope that farmers do not end up with two conflicting plans, one for water quality and one for soil conservation.

Mr. Chairman, as you know, there is a tremendous amount of erosion control activity on farms and ranches across the country. Farmers are reducing erosion and increasing efficiency of chemical use. In that regard, I bring special attention to the graph on the cover of my statement. Here are some examples of the steady conservation progress:

- * Soil erosion has been reduced 90 percent or more on 36.5 million acres of land in the Conservation Reserve Program.
- * Crop protection chemicals used by farmers are down 20 percent from 1982.
- * Corn's nitrogen fertilizer use efficiency is up 14 percent since 1980.
- * Soil erosion on 135 million acres of highly erodible land will be reduced by 50 to 60 percent over levels existing in 1990 when conservation compliance plans went into effect. It should be noted, however, that voluntary erosion control efforts before 1990 had already produced 2.75 times as much erosion control as all the efforts of conservation compliance will.

* Conservation tillage, which is the umbrella term that includes no-till, ridge-till and mulch-till, has increased steadily and now represents 31.2 percent of all planted acres. No-till soybean acreage quadrupled between 1989 and 1992.

Farmers are eager to learn about crop residue management, which is a key component of most conservation compliance plans. Nearly 4,000 farmers went to Des Moines, St. Louis, Indianapolis and Toledo in January to hear the latest information on crop residue management for their mulch-till, ridge-till and no-till systems. Conservation compliance was undoubtedly on their minds. However, I believe they attended because most of these systems make economic sense and they were eager to hear the information from their peers and other experts.

Also, over 800 farmers recently jammed a hotel in Indianapolis to find out the latest on no-till farming. The meeting was so popular that 200 farmers had to be turned away.

I think Paul Johnson, a farmer and former state legislator from Decorah, Iowa, correctly identified the reason for much of this activity when he said, "Education, not regulation, caused change."

I am also pleased to note that President Clinton has recognized farmers and ranchers as the best stewards of the land. We are encouraged that he has said his administration would ensure that "...environmental decisions are based on sound scientific data, not politics, and that America's farmers do not carry the costs of environmental protection alone."

Conservation compliance is having a significant impact on Farm Bureau's members. Again, let me refer you to the graph on the front cover. It clearly shows that farmers' conservation compliance efforts are on target. Last year we projected that the percentage of conservation compliance acres fully implemented by 1993 would be 57.6 percent. The Soil Conservation Service (SCS) recent data indicate farmers are just slightly ahead of that pace at 58 percent of acres fully implemented.

Our members recognize the need for greater soil conservation. But in order to meet the soil conservation and water quality goals of farm conservation plans by 1995, they believe we will need additional plan flexibility, increased financial cost share assistance and some additional educational and technical assistance. The progress we are making also shows that mandatory and punitive measures are unnecessary.

This leads me to H.R. 1440. The Congress and farmers are already expecting near miracles from the SCS in 1994 in terms of technical assistance to finish the job of conservation compliance. We frankly have a concern that to burden SCS with the additional load of developing single comprehensive plans for agricultural land users during 1994 is simply asking more than is humanly possible in the time allotted.

Farmers are making tremendous strides in improving soil and water quality via conservation compliance. It may take a decade to actually prove the changes in water quality that all their efforts are producing.

As recently as February, 1993, Dr. George Hallberg, Iowa Department of Natural Resources, told agricultural water quality researchers in St. Paul:

"We need time. Even if we could do it— implement all known BMP's today— we'd still be a decade away from proving changes in water quality."

Dr. Hallberg should know. He's been studying Big Spring Basin in northeast Iowa for over a decade. Dr. Hallberg said that average nitrogen fertilizer use on corn has gone down 30 percent from 174 pounds/acre in 1981 to 120 pounds/acre of nitrogen in 1990, but corn yields have gone up from 128 to 145 bushels. During most of that time nitrate concentrations in Big Spring trended downward, coinciding with reduced nitrogen fertilizer use. Then came the dry years of 1987 through 1989, which held nitrate in the soil profile. Suddenly, in 1990 and 1991 the rains came and nitrate coming out of Big Spring is higher than it's ever been.

Mr. Chairman, we will need at least to the year 2005 to really understand the impact of conservation compliance.

Another area of concern with H.R. 1440 is that it requires the Secretary of Agriculture to issue regulations within 180 days of its passage. This is too fast to do a good job. It would likely produce a waste of resources. We need to get it as close to right as we can the first time. One year's time would be more appropriate.

We strongly support the idea of SCS being the lead agency in conservation activities affecting agriculture. The most technically qualified people to develop comprehensive plans and to determine compliance work for SCS. Unfortunately, having SCS do both jobs will be perceived as improper by some people. To strengthen the system, our members support the establishment of an impartial appeals process to resolve disputes between producers and SCS regarding the application of conservation compliance provisions. SCS should not be asked to be both an enforcer and a judge.

We are also concerned that forestry is not specifically included within the definition of agricultural land.

Next, let me cite an example of an innovative program that could further spur agricultural resource conservation.

Farmers in selected townships in Pepin County, Wisconsin, were reported to have stood in line 20 deep to register their land into a conservation credit program. For a \$3 per acre reduction of their property tax, farmers create conservation plans for their entire acreage.

In townships where no credit was offered, acreage under conservation plans remained relatively stable for four years.

Over that same period, land under conservation plans doubled where the credit was offered. As a result, 70 percent of the erodible land in Pepin County now have conservation plans in place. This project, which is being tried in only a few other places as far as I know, is more effective in attracting participants than conservation compliance under the Farm Bill. It can be used on any land--not just highly erodible land.

This innovative effort allows farmers to choose the practices that best fit their operation. They are not locked into a long-term agreement that prevents alternative uses or management practices. Also, they do not lose previous benefits if they drop out of the program. And finally, and most important, the program is controlled locally--by the people most directly affected and concerned.

It was most interesting for all of us to find that nearly three of every four farmers in Pepin County said that erosion was not hurting their individual operations. Yet, 70 percent of the farmers agreed to participate in the Conservation Credit Program. They found ways to use traditional management practices, such as contouring, strip-cropping and rotation, to reduce soil erosion below acceptable levels.

The initial results indicate that it may save large amounts of staff time and money and could be adapted to solving water quality problems as well. Mr. Chairman, our members believe that appropriate tax incentives through voluntary programs will achieve far more soil and water improvement at far less cost than anything we've attempted yet.

Pepin County's idea could be applied in every county. At \$3 per acre per year on the nation's 400 million acres of cropland, it would take 100 years to spend the same amount that the federal government has already spent to clean up point sources of pollution over the last 20 years.

Rewarding conservation improvements over the long term with either property tax or income tax credits is a good investment in our future.

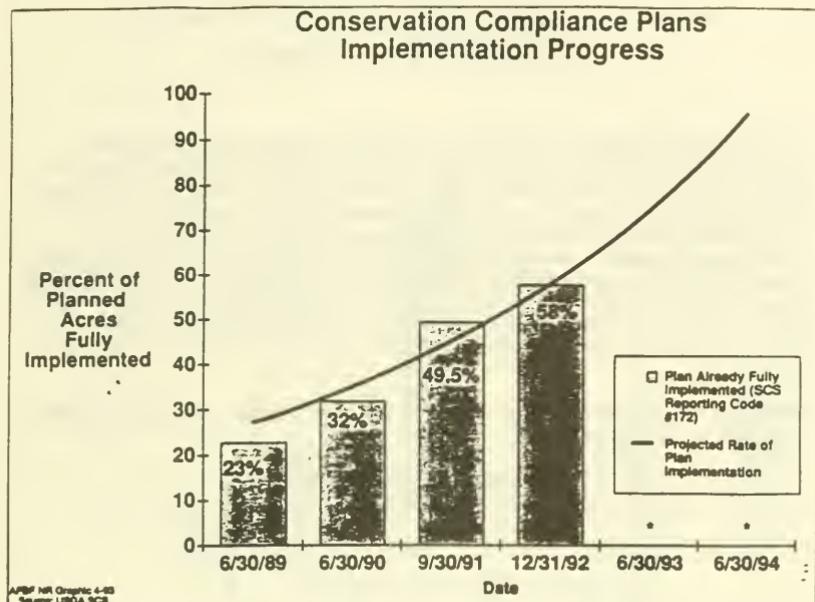
In conclusion, let me emphasize two points, Mr. Chairman:

The first is that your bill contains many positive features, and we hope the subcommittee will continue its work on it.

And second, I hope you will continue to support a voluntary incentive based, educational conservation effort. It is the road to success.

Thank you for the opportunity to appear before you today.

(Attachment follows:)



Review of Conservation Compliance Progress Through 1992

by

American Farm Bureau Federation

April 21, 1993

Review of Conservation Compliance Progress Through 1992
 by
American Farm Bureau Federation

Zero Erosion Impossible, But Farmers Pursuing Conservation Excellence
 Farmers and ranchers realize that neither they, nor the nation, can afford the goal of pollution free to the last drop when it comes to controlling soil erosion and agricultural runoff. To illustrate the cost of achieving zero erosion, take the case of Van Wert, Iowa, where 16 inches of rain fell in 24 hours in September, 1992. Over 120,000 acres of cropland were damaged by that rainfall/runoff event. The only way to eliminate sediment getting into the rivers and lakes would have been to build a roof over the entire 120,000 acres. Just to put a roof over it would cost a minimum of \$10.00 per square foot or \$52 billion. While it would have stopped erosion on that particular 5 townships of land, it would have only magnified runoff and erosion problems on land adjacent to the roofed area.

However, as will become clear from the rest of this report, farmers are willing to pursue excellence in conservation.

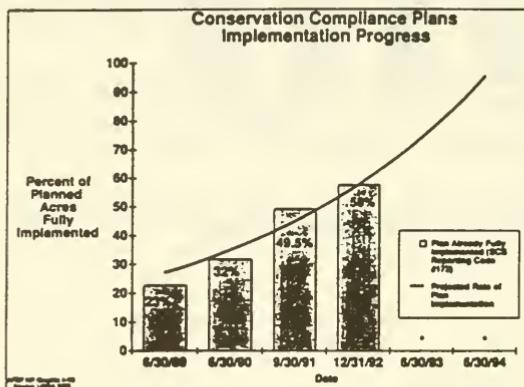


Figure 1. AFBF NR Graphic 4-93. Source: USDA SCS

The trend line in Figure 1 showing projected rate of implementation is based on the data available from 1989-1991 shown by the first three bars of in the graph. That trend line projected 57.6 percent of the planned acres would be fully implemented in 1992. According to SCS's data as of December, 1992, plans are fully implemented on 58 percent of the planned acres, just slightly ahead of our projection.

An additional bit of good news is that farmers' attitudes toward compliance are changing, especially as they see that its impact on their profitability may be neutral or possibly positive.

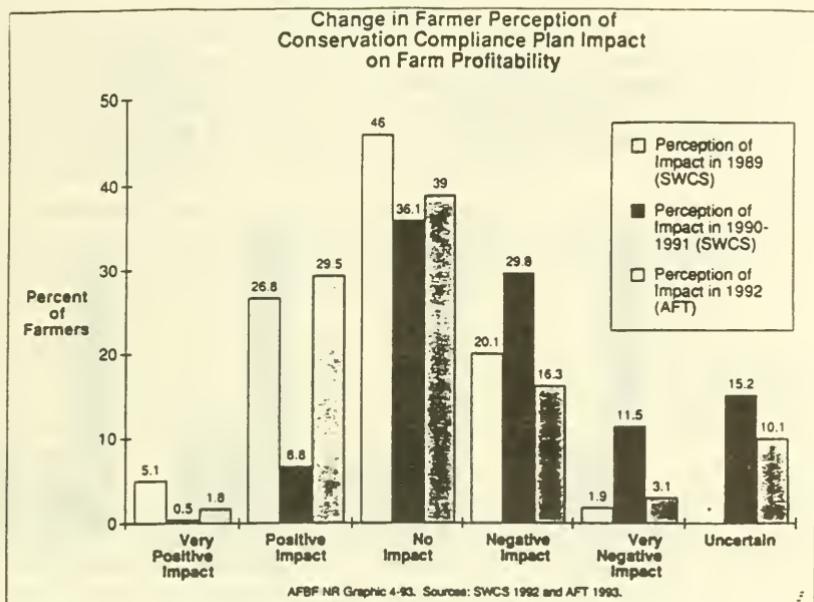


Figure 2. AFBF NR Graphic 4-93. Sources: Soil and Water Conservation Society and American Farmland Trust.

Figure 2 is a compilation of data from producer surveys done by the Soil and Water Conservation Society (SWCS) in 1989 and again in 1990-91 and one completed in December 1992 by the American Farmland Trust (AFT). Very few farmers expect impacts of conservation compliance to be "very positive" on their farm's profitability. However, as farmers began to understand their plans better their attitudes about "very negative" and "very positive" have shifted dramatically. In the early stage of compliance (1990-91) the SWCS survey found 23 times more producers viewed the impact on profit as very negative as opposed to very positive. At roughly the halfway point, AFT's study found only about twice as many viewed the impact as very negative as those who viewed it very positive.

Farmers' opinions in the AFT's study are remarkably similar to SWCS's pre-compliance study in 1989. The good news is that there seems to be a swing back to viewing compliance plans as having a neutral to positive impact on farm profitability. The bad news is that AFT's study still shows nearly one-fifth of the producers see it as having a negative impact on their income. This illustrates the need for an increased collection and dissemination of information particularly about those practices that are both environmentally effective and economically sound.

One of these management practices, no-till, looks very promising in terms of profitability for corn/soybean rotations based on data collected from 821 farmers participating in the Farming for Maximum Efficiency Program (MAX) in Iowa in 1992.

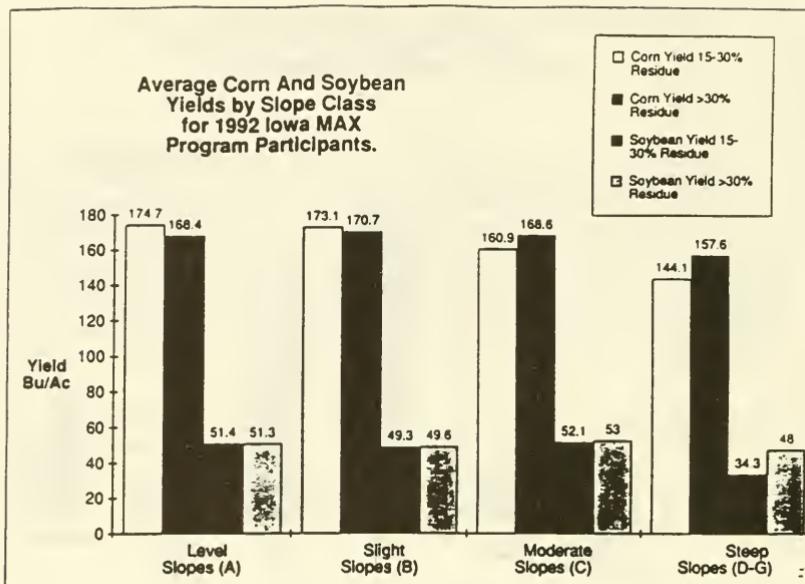


Figure 3. AFBF NR Graphic 4-93. Source: Successful Farming.

Figure 3 contains MAX program data for 821 fields from Iowa for 1992. It shows that soybean yields on level to moderate slopes with greater than 30 percent residue cover (usually corn residue) are equal to or better than yields from the same slopes with less than 30 percent residue cover. On steep slopes (D,E,F & G slopes) the yield difference is 14 bushels per acre more soybeans where residue cover is greater than 30 percent.

Corn yields in the Iowa MAX program provide both optimism and a bit of caution. The optimism is that on moderate to steep slopes yields were 8 to 13 bushels per acre higher respectively for land with more than 30 percent residue cover than for land with less than 30 percent residue cover. The caution is that for level to slightly sloping land, corn yields were 6 to 2 bushels less per acre where there were high residue levels. Yield reductions like this will cause farmers to think twice about the value of crop residue management on level to slight slopes. Developing economically sound solutions to the yield-reducing effects of residue on level to slightly-sloping lands will be critical if residue management is to become the preferred conservation technique. On steeper slopes, the overall positive effects of residue cover is providing such economic incentive.

Crop Residue Education and Data Still Needed

Crop residue management is a key part of 75 percent of the compliance plans. One of the more troubling notes here is that a recent survey completed by the American Farmland Trust in December, 1992, found that 27 percent of the 291 farmers who had a generic form of residue management in their plans wanted to remove that practice. However, only 6.2 percent of the 371 farmers whose plans specified no-till wanted to remove that practice from their plan. The AFT survey was not able explain why so many farmers wanted to remove residue management as part of their plan.

One possible explanation may be found in the data from the Iowa MAX Program which showed corn yields declining on level to slight slopes where residue cover was greater than 30 percent Figure 3. Perceptions about no-till, on the other hand, would benefit from the MAX study data showing corn yields increased on moderate to steep slopes where residue cover was greater than 30 percent.

However, there is a caution here. Late spring frosts severely reduced yields in some no-till fields in the midwest in 1992 compared to adjacent mulch-tilled and conventional tilled fields. The soil in the mulch-tilled fields was slightly warmer and reradiated enough heat during the night to prevent the crop from freezing. Dr. Paul Handler, editor of *Atlas Forecasts*, predicts late spring frosts and cooler temperatures this summer (1993) in the midwest.

One question that needs to be raised is, will following a conservation compliance plan that calls for no-till bankrupt a farmer or increase Federal Disaster Program outlays as an unintentional consequence of not understanding the plan's interaction with the weather? This point reemphasizes our members' view that plans should have additional flexibility.

SCS and CTIC Crop Residue Education Efforts Are Commendable

We would like to commend the Soil Conservation Service and the Conservation Technology Information Center for their efforts to educate farmers and agribusiness leaders about crop residue management during the last year. The crop residue alliances that have developed at the state level as a result of the catalytic efforts by SCS and CTIC have been very helpful. Largely as a result of their timely and well researched efforts, we have seen a proliferation of articles on crop residue management in the farm press. Also, the farm input industry has developed a high profile for crop residue management in their advertising.

Farmers Attend Crop Residue Management Conferences in Mass

One of the most encouraging responses to the crop residue management campaign is that so many farmers are paying to learn more about crop residue management. Nearly 4,000 farmers, each paying \$85 to attend, swarmed into Des Moines (1,660), St. Louis (750), Indianapolis (750) and Toledo (950) in January to hear the latest information on crop residue management (mulch till, ridge till, and no-till) from their peers and other experts. The conferences were sponsored by Monsanto, *Farm Journal* and the Conservation Technology Information Center. Frank Lessiter's *No Till Farmer* magazine's conference jammed the hotel in Indianapolis (816), each paying \$175 to attend, to find out the latest on no-till farming. In fact, Frank's meeting was so popular they had to turn 200 farmers away. Also, in Manitoba, Canada, an additional 1,000 farmers showed up for the Zero Tillers Conference in the dead of winter. (Sources: CTIC and Chuck Merja, Montana)

POSITIVE CONSERVATION RESULTS

Voluntary Efforts Already Control 2.75 Times as Much Erosion as Conservation Compliance Will

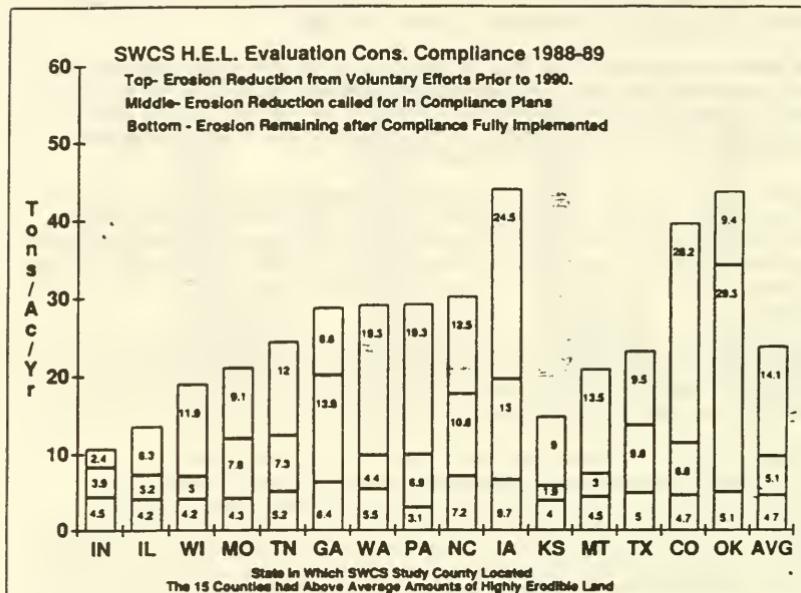


Figure 4. AFBF NR Graphic 4-93. Source Soil and Water Conservation Society.

Farmers know that it pays in the long-term to keep their productive base in good condition. As shown in Figure 4, they have a track record of voluntarily doing something about soil erosion.

When the Soil and Water Conservation Society evaluated soil erosion on highly erodible land in 15 counties in 1989, it found that farmers had already achieved an average of 2.75 times as much erosion control through their voluntary efforts as they will by implementing conservation compliance plans. Even so, our members do recognize the need for greater soil conservation as reflected in our policy adopted by our voting delegates which strongly urges, within a voluntary framework, to keep their soil losses within acceptable limits.

Some Farmers Leaving More Residue than Plan Calls For

We would be remiss if we did not point out that the SWCS study also found many farmers who were doing more than their plans called for, especially in terms of residue management. Corn residue cover is a good example. The SWCS team measured corn residue in 60 fields that were planned to have 30 percent residue cover. The average measured residue cover was 35.3 percent, and the range was from 5 to 80 percent. Figure No. 5 shows that 42 out of the 60 fields had actual residue cover equal to, or greater than, the planned level of 30 percent corn residue cover.

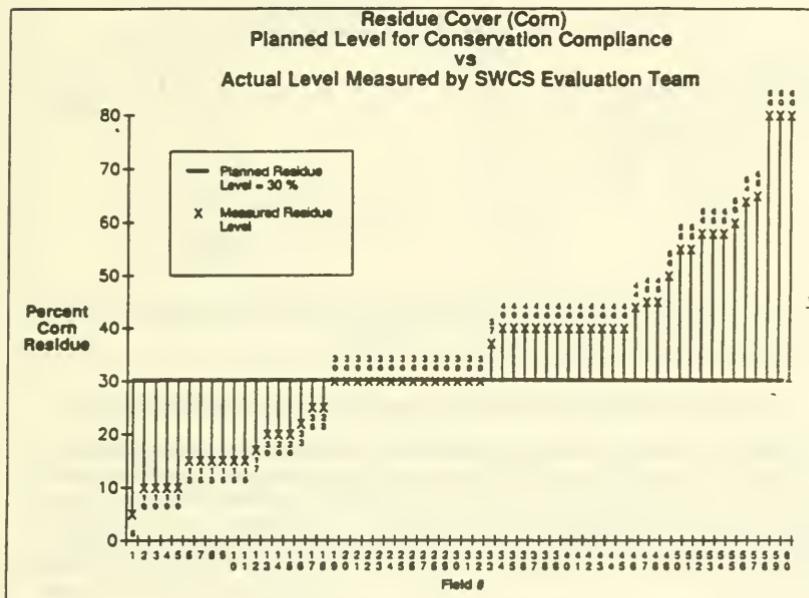


Figure 5. AFBF NR Graphic 4-93. Source: Soil and Water Conservation Society.

As indicated by the scatter graph in Figure 5, two-thirds of the farmers were able to meet, and in many cases exceed, planned corn residue levels of 30 percent. Most of those who did not make it were close, i.e. in the 15 to 25 percent range. While they were technically out of compliance, the 15 to 25 percent residue cover they did have is doing some good at controlling erosion. And it shouldn't be too hard for them to reach the planned level of 20 to 30 percent in the future with the equipment they already have.

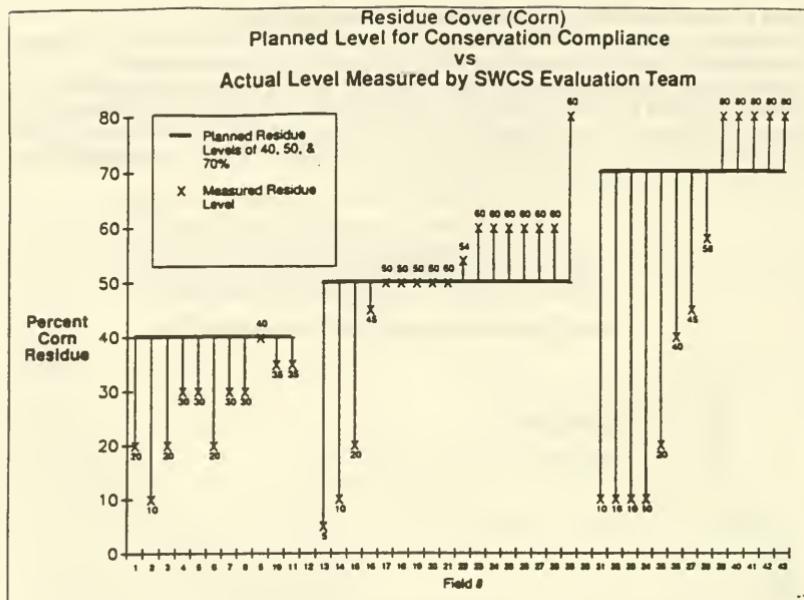


Figure 6. AFBF NR Graphic 4-93. Source: Soil and Water Conservation Society.

The planned level of 40 percent corn residue cover shown in Figure 6 appears to be no-mans land, with the operators not quite sure how to get there, most are relatively close. It will take some education and possible equipment changes.

Many of those with planned corn residue levels of 50 percent seemed to already have made the necessary transitions, with 13 out of 17 fields meeting or exceeding the planned residue level.

Plans with required corn residue levels of 70 percent had an amazingly high number of farmers who exceeded the planned level and were obviously using no-till. Those who were in noncompliance had a long ways to go. It will take education and likely require significant changes in equipment for these farmers.

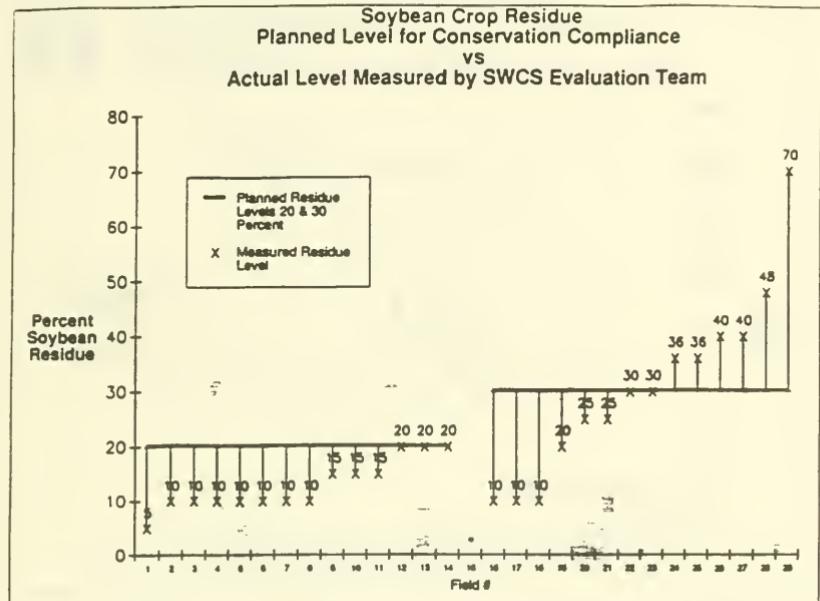


Figure 7. AFBF NR Graphic 4-93. Source: Soil and Water Conservation Society.

Figure 7, showing 20 to 30 percent planned soybean residue levels provides some useful observations. First, it's not as easy to get residue cover from soybeans as it is from corn, especially residue levels above 40 percent. For fields with residue levels planned to be above thirty percent, equally as many fields actually had residue above 30 percent as had residue below 30 percent. Most farmers who are out of compliance here didn't have far to go to reach compliance and probably could do so with existing equipment- eliminating one tillage trip might be all it takes.

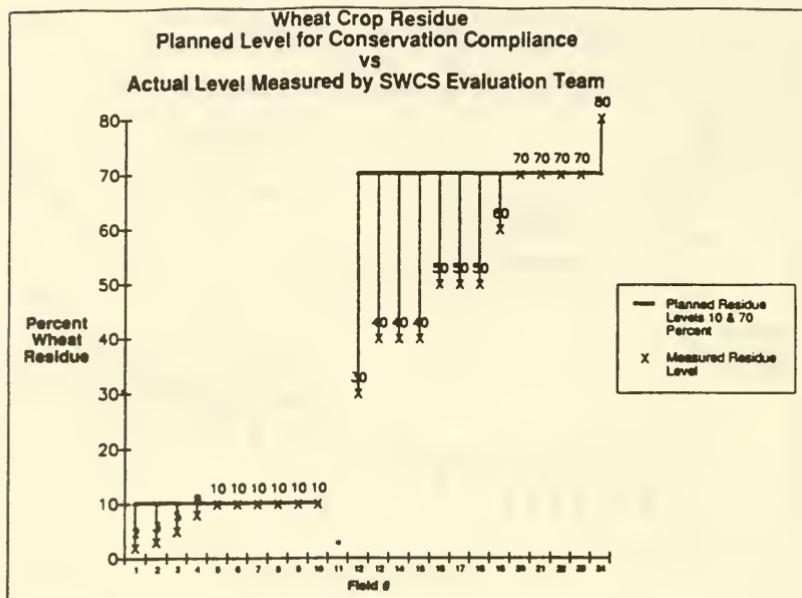


Figure 8. AFBF NR Graphic 4-93. Source: Soil and Water Conservation Society.

Figure 8 showing 10 percent and 70 percent of planned wheat residue cover provides some interesting insights. Ten percent residue cover is apparently not very hard to achieve. Six out of 10 fields met the planned 10% level. Planned levels of 70 percent wheat residue were met on some of the fields, but seven out of 13 fields missed the goal substantially, achieving only 30 to 50 percent cover. It should be noted, however, that 30 to 50 percent wheat residue provides substantial erosion control benefits. Planning for 70 percent wheat residue may be unrealistically high in some counties.



**NATIONAL
FARMERS
UNION**

TESTIMONY ON
BEHALF OF NATIONAL FARMERS UNION AND
NATIONAL FARMERS ORGANIZATION

BEFORE THE HOUSE AGRICULTURE COMMITTEE
SUBCOMMITTEE ON ENVIRONMENT, CREDIT, AND RURAL DEVELOPMENT

PRESENTED BY
BARBARA G. WEBB
ASSISTANT DIRECTOR, GOVERNMENT RELATIONS
NATIONAL FARMERS UNION

APRIL 21, 1993

Mr. Chairman. Members of the subcommittee. My name is Barbara Webb, and I serve as assistant director for government relations at the National Farmers Union. On behalf of both the National Farmers Union and the National Farmers Organization, I want to express appreciation for the opportunity to appear before you and provide comments on H.R. 1440, "The Site-Specific Agricultural Resource Management Act of 1993."

We commend you, Mr. Chairman, for taking the initiative to present this creative and common-sense legislative approach to a bureaucratic problem faced by many farmers and ranchers.

This bill closely mirrors our organization's policies on conservation issues. I have attached a copy of both the NFU and NFO policy statements and ask that they be made a part of the record of these hearings.

NFU and NFO are particularly pleased by H.R. 1440's emphasis on developing a single plan encompassing a total resource management approach to particular, specific land units. This coordination, through the "one-stop" shop of the U.S. Department of Agriculture's Soil Conservation Service working directly with the agricultural land user, has the potential of promoting more consistency, saving time and eliminating the confusion experienced by many farmers and ranchers who are presently required to file several plans to comply with differing laws and programs. At the same time, the management approach envisioned by H.R. 1440 is designed to enhance conservation of all soil, water, plant and animal resources on a land unit -- and not just one single component, such as reduction of soil erosion.

We also applaud the flexibility provided in Section 5 (e) (2) of

the bill in allowing, wherever possible, consideration of a variety of alternatives and approaches in complying with conservation and environmental concerns on a particular land unit.

NFU and NFO wholeheartedly endorse Section 5 (h) which provides liability protection for those agricultural land users who complete a resource management plan and fulfill their part of the bargain by conscientiously carrying it forward, whether or not the plan meets its intended conservation or environmental goals.

While the overall intent of the bill is clear and very commendable, our review of the legislation does raise a few questions which may merit clarification as discussion continues on H.R. 1440.

First, H.R. 1440 makes reference to plans being developed for "land units." However, there is no definition included for this term. NFU and NFO would urge that you consider using the ASCS definition for farm. We believe that this will help assure that implementing regulations do not so narrowly define "land unit" that farmers and ranchers continue to be unduly burdened by the need to file duplicative plans.

Second, NFU and NFO also maintain a continued strong commitment to involvement of the locally-elected Agricultural Stabilization and Conservation Service (ASCS) county committees.

How will the ASCS committees be involved in the management scheme embodied in H.R. 1440?

Third, how will the requirements of H.R. 1440 impact on efforts to complete approval of conservation compliance plans by 1995?

Fourth, how will the impending USDA reorganization, which will merge ASCS, SCS and the Farmers Home Administration into a new Farm

Service Agency (FSA), fit within the scheme of H.R. 1440? NFU and NFO hope that this bill can be a priority issue in reorganization, focusing appropriate attention to the need for adequate staff and funding to meet its objectives.

Fifth, our organizations believe that funding will be required to provide appropriate training so that SCS personnel can effectively prepare and review plans which incorporate resource management components beyond effective soil conservation and residue management.

Sixth, we also encourage that the bill require simple and easily understood formats. It would be counterproductive if such complex plans are developed that the result is a greater bureaucratic nightmare than the present system.

NFU and NFO also ask that you include an effective method for farmers and ranchers to use in resolving disputes with SCS over resource management plan development and implementation. We suggest that you consider expanding the jurisdiction of federally-matched state mediation programs beyond the credit area so that conservation and environmental compliance problems can be included as topics for mediation.

We appreciate this opportunity to present our views on H.R. 1440. Again, NFU and NFO thank you for recognizing what agricultural land users have done and continue to do to promote conservation and to preserve and protect the environment.

(Attachment follows:)

Conservation Policy of the National Farmers Union

Conservation programs should be good for the environment, reward stewardship of land and water resources, discourage speculative development of fragile land resources, strengthen family farming, and enhance rural communities.

We support the development of a one-stop conservation planning system for agriculture through the Agricultural Stabilization and Conservation Service (ASCS). A single conservation plan jointly developed by the farm operator and the Soil Conservation Service (SCS) should be established to fulfill the requirements for the current maze of land and water regulations of various governmental agencies.

The objective of the conservation plan must be to reduce and control wind and water erosion, prevent non-point pollution, and enhance the soil and water capacities of the land.

The plan should designate which highly-erodible soils should not be tilled and which may be tilled with approved conservation practices. It should clearly map, document and outline the conservation of both existing and drained wetlands, as well as any drains and channels. It should also provide for meeting soil erosion goals and controlling non-point pollution.

Such a conservation planning system should replace the existing sodbuster, swamplibuster, Corps of Engineers flood-plain and other regulations which impact agricultural lands. The plan should be supervised and approved by the ASCS committee process, with the technical assistance of the SCS.

Once the plan is filed with ASCS and implemented, a producer would be deemed to be in compliance with all federal agencies. Producers should be allowed to remedy inadvertent or unavoidable failures to carry out conservation plan practices, otherwise penalties should be based on the degree of the violation. Loss of full federal farm program benefits should be imposed only in cases of purposeful destruction of conservation practices.

National Farmers Organization Permanent Resolutions
Section on Conservation

National Farmers Organization members are encouraged to install and maintain sound soil and water conservation practices on their farms and ranches.

NFO recognizes the increasing need for sound stewardship over supplies of agriculture water and urges that responsible authorities handle allocations in a manner that contributes to the survival of viable commercial family farming units.

We support the elected ASCS county committee system of administration and believe this is a proper local point at which all price support and conservation activities should be coordinated.



American Agriculture Movement, Inc.

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TESTIMONY

of

T. RAY CHANCEY

National Office Director

AMERICAN AGRICULTURE MOVEMENT

before the

HOUSE COMMITTEE ON AGRICULTURE

Environment, Credit, and Rural Development Subcommittee

Subject:

H.R. 1440

"The Site Specific Agriculture Resources Management Act of 1993"

Testimony On H.R. 1440, April 21, 1993

Thank you, Chairman English and other members of this committee. My name is Ray Chancey. My family and I run a small farm in Dayton, Texas. I am here in Washington as the National Office Director for the American Agriculture Movement. I am happy and privileged to be here before you today to comment on H.R. 1440, entitled the "Site Specific Agriculture Resource Management Act of 1993".

First of all, we really appreciate that this committee has taken the time to address this issue. The problem that is being addressed is one that farmers have been having to deal with for a number of years. For the farmer to be able to deal with only one agency in order to be in compliance with all the various Federal and State soil and water conservation/environmental regulations is indeed appealing.

Farmers understand conservation and the environment perhaps better than any other segment of our society. It's not just the latest fad for us. It is and has been our way of life for generations. Our families are the closest of any families to the environment. After all, we produce this nation's food, so we smell it, breathe it, and eat it before anyone else. Our livelihood and the livelihood of our nation is determined by the wise use of our natural resources. So when it comes to conservation and environmental issues, farmers are concerned.

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These days, with all the various farm programs, farmers are told what to farm, when to farm, and how much to farm, if they are to be eligible for program benefits. Since being "in the program" is the only way most of us have to survive economically, we have to spend a great deal of time and resources making sure we are in compliance with those programs. But we can't just be concerned with compliance with the farm programs. We also have to also be educated on issues that have an impact on our income. Issues such as the world's economy, fair trade, stock market prices, the environment and the accompanying numerous regulations, increasing costs, etc., etc. Farmers indeed have a lot to consider in the planning of our farming activities.

In addition to all of this, we are mandated the responsibility for compliance with Federal and State conservation/environmental laws. So if we have determined that we have the ability (funds, equipment, labor, time, etc.) to farm, we also have to very carefully plan for the environment and conservation. These plans are sometimes cumbersome, and can make our farming activities more difficult, and nearly always more costly. There are currently some 15 different USDA Conservation/Environmental plans that we may have to comply with. To help us determine how many of these plans will apply to our particular farming activities, we have to go to the government agency that is supposed to know how to help us comply with whatever regulations there are.

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page 3, AAM testimony, H.R. 1440

This is where the problem lies that this bill is addressing. Farmers many times do not know which particular agency to go to. And sometimes, even the different government agencies can be confused as to who has jurisdiction in some areas. On more than one occasion, farmers have proceeded to farm, thinking that all the needed permits and evaluations and plans have been done, only to find later that they may be inadvertently in violation of one of the numerous Federal or State regulations that deal with soil and water conservation/environmental concerns.

To illustrate the problems that can arise when different agencies of the government do not communicate adequately and how farmers can be caught in the middle, I have included in the written part of my testimony the experience of one of our members from Missouri, Mr. Allen Mosely. The short of the story is that, in 1979, Mr. Mosely began construction of a levee on his farm. Due to unforeseen difficulties, he had to stop construction on the levee in 1980. Later, in 1988, Mr. Mosely checked with his ASCS office and was told that it was O.K. for him to resume the building of the levee. But when he resumed construction, he was told to cease construction by the Army Corps of Engineers, the EPA, the Fish and Wildlife Service, and the Missouri Department of Conservation. All of a sudden, and with no foreknowledge of his "transgressions", Mr. Mosely found himself in litigation procedures against his government. After much time, stress, and \$65,000.00 in legal fees, Mr. Mosely won

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page 4, AAM testimony, H.R. 1440

his case, and has been able to finish the building of his levee. Had Mr. Mosely had the benefit that H.R. 1440 intends, he would have been much better off.

It is the AAM's position that this bill is a beneficial step for farmers in that it lays the groundwork for better communication between the various government agencies that deal with farmers and the conservation/environmental issues. We do however, have some questions/concerns and some suggestions, as follows:

- * There should be a definition given to the term "land unit".
- * Even the best of plans are sometimes flawed, therefore we would like to see an appeals process spelled out in the bill.
- * Under sec. 5 (d) "Criteria for Comprehensive Resource Management Plans", we would like to see the "Agriculture land user" included in the planning process. On page 8, line 25, the words "and the agriculture land user" could be added to accomplish that purpose.
- * Under Sec. 5 (e) "Requirements For Individual Plans", parts (4) and (6) are addressing costs that are incurred by these plans. Since these are national environmental and conservation goals, will farmers be funded to help meet these goals? And will the funding be made available for the implementation of these plans?

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page 5, AAM testimony, H.R. 1440

- * The liability portion of H.R. 1440 is by far one of the most important parts of this bill. We realize that this portion addresses only the current USDA regulations, but is it possible to expand this portion so that it would include protection from other government agencies such as the EPA, Fish & Wildlife, and others?

Thank you for the time, and the opportunity to come before you today. I will be happy to try to answer any questions you may have.

(Attachment follows:)

Attachment to Testimony on H.R. 1440,
American Agriculture Movement, Inc.

United States vs. Moseley: Whose Land Is It?

In July, 1979, when Allen Moseley bought his farm near Rothville, Missouri, in Chariton County, he thought he was getting it with clean title; that it was his to farm and develop in accordance with normal farming practices, and, indeed, as the United States Government was then encouraging. What Allen Moseley did not know, nor could he have known, was that in less than ten years his government would in effect claim that most of his land actually belonged to the United States. In 1979, Mr. Moseley did not suspect that one day one branch of the U.S. government would be telling him that it was OK to clear brush and trees on his property, while at the same time other agencies would sue him and his wife for \$25,000.00 per day for every day from July of 1988 to the present (currently about 10 million dollars)! Allen Moseley could not have foreseen that he would someday become a pawn in a scheme by certain overzealous government agencies whereby they would try to seize bottom land throughout the country... all through a twisted interpretation of a 1972 Act intended to prevent water pollution. And all without paying the landowners a dime of compensation.

The Moseley farm is dry, solid-ground bottom land, portions of which are near Yellow Creek. In 1979-1980, a great deal of the farm was cleared, including two old dried-up and sedimented-in oxbows in the middle of the field. Also, Mr. Moseley began building a levee to protect his soybeans from any severe flood from Yellow Creek that might otherwise cost him his crop. On September 5, 1980, tragedy struck when Mr. Moseley's trailer burned down; he lost everything and it slowed his plans for a while. With the 1981 farm crisis, he was economically unable to do any more clearing or work until August of 1984. But due to some major equipment problems, even then he did not get very far. Due to these and other problems, the farm was ultimately foreclosed in 1985. In July of 1988, Mr. Moseley was able to buy his farm back, and resumed farming. Thinking he had overcome all possible obstacles, and after checking with the ASCS, he resumed construction of the levee he had earlier started.

In August, 1988, Mr. Moseley came face-to-face with yet another barrier to his farming plans...his own government. On August 8, 1988, the Army Corps of Engineers' field inspector stopped at the farm and told Mr. Moseley that "a complaint" had been filed about the levee. The Corps said that they could not, however, tell the Moseleys to stop work until a "wetland determination" had been made by the Army Corps. The Army Corps' field inspector was informed that Mr. Moseley would seek legal advice before subjecting any of his land to the so-called "wetland determination". The attorney was to contact the Corps within three days, which he did.

Almost a month and a half later, on September 30, 1988, the Army Corps' Chief Regulatory Officer, Melvin Jewett, David Meyer, Cliff Sanders (the latter two being field inspectors with the Army Corps), and Tom Taylor (EPA) arrived at the house with a purported "cease and desist" order. All of the Army Corps personnel had documents purporting that they had been made

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page 2, Moseley, AAM

"authorized representatives" of the EPA. Mr. Jewett claimed that the EPA could enter Mr. Moseley's land at any time and that these documents gave them access to the farm to inspect the levee and anything else they wanted to see. Against Mr. Moseley's wishes, but under "color of authority", the government personnel entered the farm, inspected the levee, and the surrounding areas, and took many pictures. Mr. Moseley informed the Corps that he intended to log any timber within the levee, and then clear the remaining brush. Mr. Jewett told Mr. Moseley that if he wanted the levee, then he had 30 days to apply for a permit. Otherwise, he had 90 days to tear down the levee and "restore", or face litigation.

Several days later, in early October, 1988, the Army Corps of Engineers field inspectors, Sanders and Meyer, returned to the property and made the Corps' so-called "wetland determination". It was the Corps' determination that a little over half of the then completed levee was not placed in any wetlands. The Army Corps claimed that the remaining levee was supposedly in wetlands, and that the levee had in effect "taken" 7.8 acres of wetland, and that there were approximately 8 acres of supposed wetlands where brush had grown up in the two previously cleared oxbows. The Army Corps' field inspectors then typed up a permit application for Mr. Moseley and the permit was submitted.

It was then that Mr. Moseley's real trouble began. Having got their "foot in the door" with the permit application, the government agencies apparently decided that Mr. Moseley's land belonged to them, and not to him. They in effect told him that he had "taken" their wetlands, and that in order to keep his levee, he would have to "mitigate" for the property which he had "taken" from the government.

In January, 1989, the Army Corps' personnel returned and walked all over the entire farm. They even brought their environmentalist, a Ph.D. The Army Corps' Ph.D. told Mr. Moseley that the 22 acres of timber which was next to the creek was "prime timber", and then suggested that Mr. Moseley offer it as "mitigation" for the 15.8 acres of wetlands "taken" (by the levee and the dried up old oxbows). He did.

However, the 22-23 acres was not enough for the agencies. The Army Corps, The EPA, the Fish & Wildlife Service, and the Missouri Department of Conservation demanded more. They said Mr. moseley could not give them 22-23 acres of land by Yellow Creek as "mitigation"...reasoning that since they claimed it was wetlands, they already had it! (Essentially: "You can't give us what we already have.") The government kept rejecting Mr. Moseley's suggestions and instead demanded more and more "in exchange" for the permit. The government demanded that Mr. Moseley charge his levee alignment to "set-aside" the 18 acres of timber/brush in the southwest corner of the property.

On April 4, 1989, the Army Corps issued a "permit" which contained numerous burdensome "special conditions", many of which had never been previously discussed with Mr. moseley. Thereafter, dissatisfied with the permit "conditions" as a whole, Mr. Moseley researched state and federal laws concerning levee construction and brush/timber clearing. Additionally, the Army

--continued--

Corps informed Mr. Moseley's attorney that no permit was required to clear his timber. Accordingly, in the summer of 1989, the 18 acres of timber were cleared. Also, work on the levee resumed.

On August 15, 1989, the government filed a complaint in federal court seeking injunctive relief and \$25,000.00 a day in civil penalties. After telling Mr. Moseley that he could clear his timber, the government now claimed that he had eliminated a "valuable wildlife corridor". The government subsequently offered to settle the case, provided that Mr. Moseley would: pay a civil penalty, essentially cut his farm in half, giving the west half to the government, along with a 40 year "set-aside" restriction on the 22-23 acres next to Yellow Creek, cut holes in the west side of the existing levee, and replant trees every 20 feet on the 25 acres of cleared land on the west side (the "government half") of his property. In making this "offer", the government did not offer even a dime for Mr. Moseley's property. They claimed it was already theirs.

Mr. Moseley continued the fight in court, and eventually won his case. However, he has had to spend approximately \$65,000.00 in legal fees to be able to protect himself from his own government.

STATEMENT OF
LEROY WATSON
ASSISTANT LEGISLATIVE DIRECTOR
OF THE
NATIONAL GRANGE

Mr. Chairman and Members of the Subcommittee:

My name is Leroy Watson. I am the Assistant Legislative Director of the National Grange, which is this nation's oldest, general farm organization. We currently represent approximately 300,000 members, who are affiliated with 4,000 local Grange chapters across the nation. Our national offices are located at 1616 "H" St., N.W., Washington, D.C.

The National Grange strongly supports the adoption of H. R. 1440, the "Site-Specific Agricultural Resource Management Act of 1993". H. R. 1440 reflects practical implications in the changing circumstances of farm resource management. Over the past decade, our society has come to better recognize the importance of resource stewardship in the safe and profitable production of food and fiber. At the same time, we have become equally cognizant of the fact that effective resource stewardship in producing food and fiber is possible only when farmers, as resource managers, have the proper tools and information with which to make rational and informed decisions. This bill will guarantee that the U. S. Department of Agriculture (USDA) will be a valuable resource for farmers to call upon as part of their management program.

However, we believe that there are three important issues that should be addressed in this bill either as amendments to the legislation or as part of the Committee's report language before final passage.

First, the legislation requires that resource conservation planning mandates and programs within the USDA be centralized in the Soil Conservation Service in order to provide for "one stop shopping" for farmers who are seeking assistance in developing site-specific integrated resource management plans. (Sec. 5) However, the legislation makes participation of the federal or state agencies that are outside the USDA a voluntary consideration on their part. (Sec. 5(c)(6); Sec. 5(c)(7)) We believe that stronger language is necessary in order to provide that federal and state agencies outside the USDA will work to incorporate any conservation or environmental requirements they administer into the unified site-specific plans that are envisioned by H. R. 1440. The language in Sections 5(c)(6) and 5(c)(7) that provides that other agencies may enter into agreements with the Soil Conservation Service could be changed to "shall". Alternatively, outside federal agencies could maintain discretion to enter into agreements with the USDA, but could then be required to file a public statement of explanation on a periodic basis with the Secretary of Agriculture and the House and Senate Agriculture Committees regarding the reasons why they are not participating in the USDA's programs. Finally, as an alternative, the report language to H. R. 1440 should specifically authorize the USDA's employees to advise farmers about the requirements and mandates under non-USDA programs, even if those other agency programs are not incorporated into the USDA's "one stop shopping" service.

Second, this legislation should specifically provide that the public notice and comment provisions of the Administrative Procedures Act (APA) will apply to multi program and multi agency regulatory guidance material, such as envisioned by Sections 5(d) and 5(e) of H. R. 1440.

We are particularly concerned that we do not repeat the problem that arose with the Federal Manual for the Delineation of Wetlands. For several years, the federal agencies that administered federal wetlands policy formulated joint operating procedures, such as the Federal Manual. The purpose behind these procedures was similar to the philosophical concepts of H. R. 1440 - a unified, predictable application of similar laws, programs, and mandates that affect the general public. A controversy arose when the Environmental Protection Agency and the U. S. Army Corps of Engineers refused to allow the changes in the Federal Manual to go through the APA's publication, notice, and public comment process. These agencies argued that products like the Federal Manual did not represent new regulation. They represented only the interpretations of the underlying regulations that were properly adopted by each of the participating federal agencies. As a result, they claimed that the changes that were made to the Federal Manual, or other operating procedures, were just interpretations of existing regulations and not changes to any specific regulation.

The National Grange and other concerned organizations saw the situation quite differently. We interpreted the practical and

legal implications of these multi agency, joint operating procedures far more broadly than the EPA or Corps of Engineers. We argued that the sum of the various agency regulatory policies incorporated into the Federal Manual was greater than its parts and constituted new regulatory burdens on farmers that triggered the APA's procedural protections. The agencies turned deaf ears to our pleas for public participation in the formulation of the Federal Manual. Fortunately, many of our friends in Congress, particularly those on the Appropriation Committees, recognized the problem and included provisions to deny the expenditure of federal funds for enforcing any Federal Manual that had not first been opened to public notice and comment. Two years ago, these federal agencies threw in the towel and provided for public notice and comment on all future revised Federal Manuals.

This Subcommittee should make it explicitly clear, in the legislation or report language, to the USDA and other participating agencies that the USDA's final operating procedures, including development of any criteria, standards, or factors that are to be used in evaluating a farmer's compliance, are subject to the procedural protections of the Administrative Procedures Act. The National Grange believes that a strong policy of participation and inclusion for farmers and their farm organizations in the final implementation decisions of H. R. 1440 will strengthen the support for this legislation and will ultimately provide for better, farmer-friendly administration of these programs.

Finally, we support expanding the language contained in Subsection 5(h) to give farmers a clear presumption that they are complying with all conservation and environmental requirements that are covered by their plan, as well as, those conservation and environmental requirements that are not specifically covered by the plan but are possibly affected by their plan. The Subcommittee's clear intent should be to push the presumption of Section 5(h) - that compliance with the plan is a legal defense - to its limit. Strengthening Subsection 5(h) would not only provide greater protection to farmers, but would serve to encourage non-participating federal agencies to take advantage of the cooperative agreements sections of H. R. 1440 to assure that their concerns are being addressed in the unified farm conservation planning process.

In summary, the National Grange supports passage of H. R. 1440, "the Site-Specific Agricultural Resource Management Act of 1993". We urge this Subcommittee to consider making three changes to this legislation, or its report language, that would improve the legislation. First, we urge strong language to require or persuade non-USDA agencies that have important resource management agendas to participate in the cooperative agreements provisions of Sections 5(c)(6) and 5(c)(7) of the legislation. Second, we urge that any criteria or standards that are developed under Subsection 5(d) or evaluative factors that are developed in Subsection 5(e) be explicitly subject to the public notice and comment provisions of the Administrative Procedures Act. Finally,

we urge that the legal presumption of compliance with conservation and environmental requirements in Section 5(h) be extended beyond just those requirements that are covered by the farmer's plan in order to include any requirement that may also be affected by the plan.

Thank you very much for this opportunity to express the views of the National Grange. I would be happy to answer any questions that you may have.

**NATIONAL CATTLEMEN'S ASSOCIATION**

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on behalf of

NATIONAL CATTLEMEN'S ASSOCIATION

in regard to

H.R.1440**The Site-Specific Agricultural Resource Management Act of 1993**

submitted to

The Subcommittee on Environment, Credit, and Rural Development

of the

**United States House of Representatives
Committee on Agriculture**

by

Kathleen Hartnett

Director, Private Lands, Water and Environment
National Cattlemen's Association

April 21, 1993

The National Cattlemen's Association is the national spokesman for all segments of the beef cattle industry--including cattle breeders, producers and feeders. The NCA represents approximately 230,000 cattlemen. Membership includes individual members as well as 46 affiliated state cattle associations and 29 national breed associations.

The National Cattlemen's Association appreciates the opportunity to testify on H.R.1440, "The Site-Specific Agricultural Resource Management Act of 1993." NCA heartily commends Mr. English, the original author and the other cosponsors, for this legislation's recognition of the escalating need for addressing natural resource protection on private agricultural land through a site-specific approach which incorporates the necessity of economic viability in management plans. NCA also applauds the focus on the Soil Conservation Service as the agency most capable to deal with environmental protection on agriculturally productive land.

Although many cattlemen do not participate in USDA commodity programs and thus are not required to have conservation compliance plans, the majority of NCA membership now wrestles with the mandates of multiple management plans. As this legislation points out, the single purpose orientation and generalized standards of many of these plans are inefficient and burdensome to say the least. Even more, these plans are often environmentally counter-productive, i.e. they fail to achieve the environmental goal because they are not designed to reflect the unique physical parameters of a specific piece of property. H.R. 1440's emphasis on site-specific plans which integrate management of multiple resources, as well as agricultural productivity and economic viability, is the only way in which genuinely effective, enduring environmental protection will occur.

With these positive comments in mind, NCA would offer several questions about specific provisions of the bill. NCA policy strongly supports the original mission of SCS to provide cost-effective technical assistance to agricultural producers on a voluntary basis. We believe that much of this original mission already has been eroded by the compliance role required of SCS through the last two farm bills. H.R.1440 clearly designates SCS as a compliance agency for all USDA conservation requirements and potentially of the environmental requirements dictated by other agencies. NCA is well aware of the comparative advantages of SCS's practical "agricultural know-how" compared to EPA or USFWS. However, we are concerned that an enlarged compliance role for SCS will erode trust and thus cooperation with producers. Giving SCS full blown compliance and enforcement authority dissolves the original statutory mandate of SCS.

Perhaps some of the greatest need for the economically realistic, site-specific, integrated resource management envisioned by this bill involves legislative mandates outside of USDA authorities, (e.g. Corps of Engineer/EPA wetlands authority, water quality regulation in states

and potentially through Sections 319 of Clean Water Act, non point source controls through the Coastal Zone Management Act, and the Endangered Species Act (ESA). H.R.1440 provides that non-USDA agencies "may" enter into agreement with SCS for implementation of environmental requirements on agricultural land. Not surprisingly most producers would much prefer working with SCS than USFWS or EPA. Yet, NCA questions whether it would be legally possible for these agencies to enter into such agreements, delegating their statutory authority to SCS, without actual amendments to the statutes in question. This same question is raised by the provision for liability protection.

For example, it is legally questionable whether the USFWS could relinquish its enforcement authority under the ESA to SCS through a Memorandum of Agreement without an express amendment to this effect in the ESA itself. Similarly, it is doubtful whether a site specific management plan designed by SCS which aimed to balance agricultural productivity, economic cost, and the environmental objective could pass muster with the tough, to the point of unequivocal standards of the ESA. ... standards which even the Supreme Court has clearly stated outweigh all costs and other benefits.

And finally, the ESA and most other federal environmental statutes have citizen lawsuit provisions. H.R.1440's provision for liability protection most likely would not override this authority. If, for example, an environmental organization representing the "public" did not believe an individual SCS site specific plan met the terms of the ESA, the landowner, SCS, and even USFWS could be sued for a violation of the law.

A last question concerns the possibility that such appropriately comprehensive resource management authority, vested in any one agency of federal government, could inadvertently become the basis for mandatory, nationwide land use control on all private agricultural land. Outside of USDA programs, federal laws increasingly tend toward mandatory authority on private land. NCA does not want USDA/SCS to facilitate what cattlemen believe is unnecessary, environmentally counter-productive, unconstitutional federal land use control.

There are still many agricultural producers, and certainly many cattlemen, who are not required to have management plan certified by the federal government as a condition for operating their private land. NCA does not believe that federal planning authority is the only means of promoting and assuring environmental protection.

In summary, NCA supports the goal of this legislation to integrate and streamline conservation planning on a site-specific basis. The rapidly escalating, multiple environmental dictates and planning requirements are reaching a prohibitively burdensome and costly level for many farmers and ranchers. H.R.1440 raises many questions but it recognizes a critical need. NCA looks forward to ongoing consideration of this issue with the committee.

Testimony
Jerry Calvani, Chairman
National Cotton Council of America
before the
House Subcommittee on Environment,
Credit, and Rural Development

April 21, 1993

Mr. Chairman my name is Jerry Calvani and I am Chairman of the National Cotton Council of America. Today I am speaking on behalf of the National Cotton Council, the National Association of Wheat Growers, the National Corn Growers Association, the American Soybean Association and the U.S. Rice Producers Group.

We commend you for your leadership in introducing H.R. 1440, "The Site Specific Agricultural Resource Management Act of 1993" and appreciate the opportunity to present our comments on this legislation. Our organizations support the concept of streamlining the process for establishing resource management plans for a farm. Farmers already spend a great deal of time consulting with various governmental agencies and filling out numerous forms. Furthermore, the Department of Agriculture's policy of coordination and teamwork would be enhanced by establishing one basic site specific program for these plans.

The U.S. Department of Agriculture was created 130 years ago to conduct research and provide information to farmers. This role has greatly expanded. Department programs are now designed to support farm income, develop markets, boost farm production and exports, provide consumers with food information and assistance and conserve and protect, our nation's natural resources on farms.

This expansion, together with advances in technology and environmental protection, have changed the Department's initial role and mission. Conservation and environmental issues are gaining in importance in establishing farm policy.

In 1992, several congressional hearings were held on streamlining USDA and its field structure. Several options are now under review to integrate the Department's farm service agency delivery system so that multiple agencies operate as a unit.

Today, American farmers receive valuable help from the Soil Conservation Service, the Agricultural Stabilization and Conservation Service, the Extension Service, the Cooperative State Research Service and the Forest Service, just to name a few. Farmers have also volunteered their time to serve on state and county ASCS committees. These committees administer and oversee ASCS programs and activities as well as the field operations of the Commodity Credit Corporation. Many members of the organizations that I represent here

today are on these committees. This local involvement and state and federal coordination are essential for proper development of all farm programs.

Proper implementation of most farm conservation programs depends on a close and effective working relationship between farmers and the Soil Conservation Service, Agricultural Stabilization and Conservation Service, Forest Service, Extension Service, and others, especially regarding site-specific resource management plans. The particular needs of farmers as well as the established working relationships they have with state and local officials should also be considered.

Developing these plans on farmland can be very complex. For example, the Soil Conservation Service, the Agricultural Stabilization and Conservation Service, and the Forest Service have designated 172 different soil and water conservation activities that are eligible for cost-sharing, 92 of these are considered water quality activities. More than one-half of the 92 water quality activities may be eligible for cost-share under five or more programs. I am enclosing in my testimony a list of these 92 water quality activities just to illustrate the complexities involved.

H.R. 1440 gives responsibilities to the SCS to work with other agencies or departments to establish a single farm plan for the management of natural resources. Provisions to accomplish this and to streamline a very complex system will take an enormous effort. My example of 92 activities is just one area in which SCS will assume extensive responsibilities. How the process will actually work for an individual farmer is not quite clear. Will the farmer be able to choose from a menu of plans established by the Soil Conservation Service or will only one plan be offered? How will the funding mechanism for cost-share work and what would be the basic procedure for establishing a plan? In determining compliance as well as exemptions and waivers how will SCS exercise its responsibilities?

There are many uncertainties involved in farming, and some, like the weather and costs, can never be resolved. However, farmers need to know that if they fully implement an approved plan they are in compliance. Farmers cannot afford to have the rules change once they have agreed to a plan. In H.R. 1440, farmers are deemed to be in compliance with all conservation and environmental requirements if the plan is properly implemented. This gives liability protection to farmers which is essential in any good faith agreement.

It is important to continue to strengthen USDA's position on the environmental front--especially now when restructuring the Department is being considered and farm programs could be affected by legislation established outside the traditional Farm Bills. H.R. 1440 is a step in the right direction if it is done in the spirit of teamwork and efficiency. Our organizations look forward to working with you on the provisions of this bill as it goes through the committee process and we commend you for your hard work and foresight.

(Attachment follows:)

Table 2.1: Eligible Water Quality Activities and Applicable Programs

Activities	GPCP	RAMP	SWP	ACP	CRP	CRSC	RCWP	SIP	WBP	WQIP
Woodland Access Road Stabilization							X			
Water Quality Improvement Through Woodland Improvement							X			
Waste Management Systems	X		X	X			X			X
Waste Storage Structure	X		X	X			X			
Brush Management	X	X	X	X						X
Irrigation Canal or Lateral	X		X	X		X				
Channel Vegetation	X		X	X			X			
Conservation Cover	X	X	X			X				X
Conservation Cropping Sequence	X				X			X		X
Conservation Tillage	X				X			X		X
Contour Farming	X		X	X			X			X
Prescribed Burning	X	X	X					X	X	X
Cover and Green Manure Crop	X				X	X		X		X
Critical Area Planting	X	X	X	X	X	X	X	X	X	X
Crop Residue Use	X				X			X		X
Sediment Basin	X	X	X	X	X	X	X			
Debarred Grading	X	X			X					X
Dike	X	X	X	X	X			X		
Waste Transfer					X			X		
Waste Treatment Lagoon	X		X	X				X		
Diversion	X	X	X	X	X			X		
Pond	X	X	X	X	X	X	X			X
Fencing	X	X	X	X		X	X	X		
Fertilizer Management								X		
Field Borders	X	X	X	X				X		
Irrigation Field Ditch	X		X	X			X			
Field Windbreak	X		X	X	X		X	X		
Filter Strip	X	X	X	X	X			X		
Grade Stabilization Structure	X	X	X	X	X		X			X
Grasses and Legumes in Rotation	X				X			X		X
Grassed Waterway	X	X	X	X	X	X	X			
Waste Storage Pond	X		X	X				X		

Activities	GPPCP	RAMP	SWP	ACP	CRP	CRSC	RCWP	SIP	WBP	WQIP
Irrigation Water Conveyance, Ditch, and Canal Lining	X		X	X		X	X			
Irrigation Water Conveyance, Pipeline	X		X	X		X	X			
Irrigation System, Trickle (Drip)	X		X	X	X	X	X	X		
Irrigation System, Sprinkler	X		X	X		X	X	X		
Irrigation System, Surface and Subsurface	X		X	X		X	X	X		
Irrigation System, Tailwater Recovery	X		X	X		X	X			
Irrigation Water Management	X			X			X			X
Irrigation Land Leveling	X		X	X		X	X			
Land Smoothing	X	X	X	X		X	X			
Lined Waterway or Outlet	X	X	X	X	X		X			
Livestock Exclusion	X	X		X			X		X	X
Livestock Shade Structure							X			
Mulching	X	X	X	X			X	X		X
Obstruction Removal	X	X	X	X			X			
Pasture and Hayland Management	X	X			X	X		X	X	X
Pasture and Hayland Planting	X	X	X	X	X		X		X	X
Pesticide Management								X		
Pipeline	X	X	X	X			X			
Pond Sealing or Lining	X	X	X	X			X			
Proper Grazing Use	X	X					X			X
Proper Woodland Grazing	X	X					X			X
Pumping Plant for Water Control	X			X			X			
Grazing Land Mechanical Treatment	X			X	X					X
Range Seeding	X	X	X	X	X		X		X	X
Irrigation Pit or Regulation Reservoir	X			X	X		X			
Regulating Water Drainage Systems	X			X						X
Planned Grazing System	X	X					X			X
Row Arrangement	X									X
Roof Runoff Management	X			X	X			X		
Roofing for Runoff Control								X		
Heavy Use Area Protection	X	X	X	X			X			
Sinkhole Treatment	X	X	X				X			
Soil Spreading	X	X	X				X			
Spring Development	X	X	X	X			X	X		



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**Statement on H.R. 1440
Site Specific Agricultural Resource Management Act of 1993
before the
Subcommittee on Environment, Credit, and Rural Development
Committee on Agriculture
U.S. House of Representatives**

presented by
**Ferd Hoefner, Washington Representative
Sustainable Agriculture Coalition**

April 21, 1993

The Sustainable Agriculture Coalition is an organization of non-profit, grassroots-based farm, food, rural, and environmental organizations that work together to advocate public policies supporting the sustainability of agriculture, natural resources, and rural communities. The Coalition is part of a larger Midwest Sustainable Agriculture Working Group and works cooperatively with SAWGs in other regions of the country. We welcome this opportunity to present our views and comments on H.R. 1440, the "Site Specific Agricultural Resource Management Act of 1993."

Since its inception in 1988, the Coalition has endorsed and worked to make farm, conservation and research and extension programs more responsive to comprehensive, site-specific farming systems approaches to resource stewardship. For instance, in the 1990 Farm Bill we helped fashion and pass:

- the Integrated Farm Management Program, a commodity program option "designed to assist producers of agricultural commodities in adopting integrated, multiyear, site-specific farm management plans by reducing farm program barriers to resource stewardship practices and systems." (FACTA Sec. 1451(a));

- 2 -

- the Conservation Reserve Program partial field enrollment/special conservation practice provisions to assist producers meet conservation compliance and water quality goals;
- the Water Quality Incentives Program to provide cost-share type payments for pollution prevention practices based on whole farm assessments;
- the Sustainable Agriculture Research and Education Program to foster research on agricultural production systems that enhance soil quality and productivity, conserve natural resources, improve water quality, protect human health, promote animal well being, and increase employment opportunities in agriculture; and
- the Sustainable Agriculture Technology Development and Transfer Program, a three-part program to (1) revise and develop technical guides and handbooks to reflect whole farm systems oriented planning and sustainable agriculture practices, (2) establish a training program for Extension agents and specialists, SCS and ASCS personnel, and others in sustainable agriculture concepts and practices, and (3) enhance outreach of research-based information with and among farmers.

Since the passage of the last Farm Bill, we have worked hard to see these and related measures implemented, sometimes against great resistance from the agencies involved and/or without adequate funding from Congress.

In February, we joined with other groups from around the country to send some 30 pages of recommendations to the new Administration on implementation of existing agricultural programs with relevance to sustainable agriculture. Among these recommendations was the following on comprehensive resource protection plans:

"State and federal concerns regarding water conservation, water quality, soil erosion, soil quality and wetlands protection currently take a "single problem, single solution" approach that frequently only forces the environmental impacts from one to another medium within the farm. To adequately address the long term productivity of the farm and to serve other environmental and economic objectives as well, farms should be encouraged to develop comprehensive resource management plans. Farmers who develop comprehensive conservation plans should be exempted from further reporting re-

quirements, preventing landowners from having to "double report" their conservation plans and activities."

We mention these efforts at the start of our comments on H.R. 1440 because we believe they have great bearing on what is being proposed. We strongly endorse many of the concepts lay behind the new bill -- total resource management planning, comprehensive and consolidated farm plans, one-stop shopping for farmers, and increased interagency partnership and cooperation.

However, based on our experience, there are many necessary actions that must take place if these good ideas are to really take hold, including, but not limited to, enhanced research and technology development efforts, technical assistance reform to stress farming systems, adequate training, independent appeals, and cost-share program consolidation and rule revision. I would like to comment briefly on each of these.

Research

Research and education should not be overlooked in addressing comprehensive resource management and environmental objectives. A March 1993 publication of the Public Policy Center at the University of Iowa entitled "Tradeoffs Between Water Quality and Profitability in Iowa Agriculture" surveys taxation, regulation, cost-share, and research and education approaches to water quality and concludes that of the four "research and education...would produce the most consistently positive water quality and profitability results at a relatively low cost to residents statewide."

For comprehensive resource management to be successful, farming systems research needs to be accelerated with a goal of developing and refining new options for farmers to better meet social, economic, and environmental needs. This research needs to be done both on research plots and on-farm and linked closely with extension and outreach efforts.

These are precisely the activities that are occurring through USDA's Sustainable Agriculture Research and Education (SARE) program and through EPA's buy-in into SARE known as the Agriculture in Concert with the Environment (ACE) program. For instance, SARE-supported research at Oklahoma State is providing farmers with practical ways to control weeds in wheat and small grains, with increased yields and lower chemical use.

Work is on-going on soil and water quality, wetlands, livestock management and many other topics.

Unfortunately, these programs are grossly underfunded, representing less than half of one percent of all USDA research expenditures. SARE currently is able to fund only 15% of qualified proposals funded. Given the multiyear nature of most farming systems research, continued stagnant funding is crippling the program and preventing new projects from beginning. We urge the Subcommittee members to work with their colleagues on Appropriations to turn this situation around by redirecting funding so that this essential component of the overall infrastructure needed to do comprehensive planning can move forward.

Technical Assistance Reform

The Soil Conservation Service will not be able to fulfill its obligations under this bill for comprehensive planning unless its technical guide infrastructure becomes more fully equipped to undertake farming systems and agroecosystem approaches. We strongly support the thrust of total resource management, but have serious questions about whether the primary technical assistance tools as the currently stand are truly designed for systems approaches. Total resource management is a vision, but not yet a reality. We hope that passage of legislation along the lines contemplated here might help get the technical assistance delivery system to the next stage in development.

We would also note in passing that technical guide development and revision occurs almost entirely within the agency, without the participation of other agencies and research institutions much less the participation of farmers and private organizations with appropriate expertise. This does not bode well for the kind of cooperative arrangements envisioned in H.R. 1440. A new partnership must be forged that will include expertise from other agencies and a much more central role for the farmer practitioners and their networks and organizations who are often far ahead of the agencies in terms of developing and integrating sustainable agriculture systems.

We strongly urge that the field office technical guide revisions be field tested on this question of a systems approach to comprehensive farm planning. We also urge that a series of participatory workshops, perhaps in conjunction with the SARE program, take place to improve the technical assistance system.

Training

Closely related to the question of the technical assistance tools is the issue of training. For most of the past seven years, SCS has focused training by necessity on highly erodible land -- and not by necessity this focus has been heavily weighted to residue management. Be that as it may, to move to the next generation of more comprehensive and integrated farm resource plans, agency personnel, especially more recent hires, will need to undergo additional training.

One important vehicle for this, in addition to ongoing SCS training activities, is the Sustainable Agriculture Technology Development and Transfer Program's national training initiative. This program has been scheduled for first time funding in the President's FY 94 budget proposal. We urge you to support this effort. We also strongly recommend that the Department establish stronger ASCS-SCS-ES training cooperation, utilizing the new SATDTP program structure, as it devises its reorganization plan.

Appeals

An independent appeals system within the Department is another critical part of the infrastructure necessary in our view to the continued movement toward greater consideration of conservation and the environment in farm and farm-related programs. This has received a good deal of attention elsewhere, so we will not go into any detail, but did want to flag the issue in the context of this bill.

Cost-Share Program Consolidation and Revised Rules

We greatly appreciate the single plan directive and the cost-share coordination language in H.R. 1440. Beyond the plan itself, however, lies the need for serious consideration of the consolidation of existing cost-share type programs and the issuance of revised rules for the programs. Particularly important in this light is the need for proposed rules for the Water Quality Incentive Program, which in some respects can serve as a model for additional changes in a more consolidated program. We hope that as part of this bill a date certain will be set when comprehensive, total resource farm plans will become a requirement of getting financial assistance.

H.R. 1440: Site Specific Agricultural Resource Management Act

With these comments as background, I would make a few more specific comments about the bill itself.

Comprehensive Plans: We strongly endorse the move back to more comprehensive planning. Many conservation-oriented farmers in the ranks of the sustainable agriculture movement have been frustrated and discouraged by the ever narrower focus on single issues and single technologies. The new/old thrust will be met with enthusiasm, tempered by serious concerns about the actual capabilities of the agency to deliver.

Single Plans: After a significant effort on our part, the Integrated Farm Management program, which is administered by ASCS and SCS, is being implemented so that producers with conservation compliance plans who enroll in IFM will have a single plan. While this is to be applauded and should be extended to all relevant programs, it is still not without difficulties. There have been several instances where state and local staff have misapplied IFM requirements to fit within what appear to be preconceived notions of how conservation plans must operate. There may indeed be instances where requirements of different programs or regulations will not mesh, but this was not one of them and is therefore cause for concern.

We believe the language in the bill under the "Requirements for Individual Plans" subsection to provide "various management alternatives" and to "take into consideration the economic, social, and environmental costs and benefits of the various management alternatives" is extremely important. We might, at the appropriate time, suggest additional language at this point.

Timeline: There has been a good deal of discussion about the timeline proposed in the bill. While we generally agree that it needs to be phased in a little more slowly in consideration of the conservation compliance deadline, the manpower shortage, and the need for training and technical assistance reform, we do believe there is one area that could start in 1994. Is there any reason why single plans could not be permitted and encouraged, to reduce paperwork and reporting requirements, prior to full-scale implementation of comprehensive planning? It would seem to us that many programs could benefit from a single plan approach and would not need to wait for a full blown new process. In fact, allowing for this in

'94 could provide something of a pilot testing of some of the issues that will have to be addressed.

Plan Modification: The language in the bill concerning the revision of plans is critically important and should be maintained and perhaps strengthened. Despite clear language in the statute and report language in the IFM program, plan modification has been cause for some confusion, especially on the part of ASCS personnel.

Plan Development: The bill does not directly address the issue of who develops the site specific plans. This is not an unimportant question. There should be clear language that the farmer develops the plan in coordination with SCS and other relevant agency personnel. The further issue of who else may develop plans on the farmers behalf, which has embroiled several cost share and incentive programs in controversy, should also be addressed.

Plan Compliance and Evaluation: The bill also does not address the compliance issue in any detail. How will compliance be verified? What penalties attach to noncompliance? How will evaluations be made? These are important considerations that need to be addressed.

Other Major Issues: In the interests of brevity, we would like to associate ourselves with the remarks of Robbin Marks and Tim Warman at the April 1st hearing on the vitally important issues of maintaining and strengthening conservation goals, criteria, and standards, clarifying and limiting the liability protection language, and revising the permit, waiver and exemption responsibility language. We believe that these concerns can and should be dealt with through bill revisions and clarifications as the legislation moves forward.

In conclusion, I would encourage the Subcommittee to continue to pursue the concepts in this proposed legislation, but also consider the other vital parts of the conservation and environmental infrastructure that need to be in place to make these concepts a working reality. We cannot get there from here without increased funding for critical systems-oriented research and extension, new partnerships between scientists, educators, agencies, farmers, and farm and environmental groups, continued revision and reform of technical assistance tools, enhanced training programs, and an independent appeals system. We look forward to working with you on both the specific legislation and the broader considerations.

Thank you for this opportunity to testify.

STATEMENT OF
THE NATIONAL ASSOCIATION OF STATE CONSERVATION AGENCIES
ON H.R. 1440
THE SITE-SPECIFIC AGRICULTURAL RESOURCE MANAGEMENT ACT OF 1993
BEFORE THE
COMMITTEE ON AGRICULTURE
SUBCOMMITTEE ON ENVIRONMENT, CREDIT AND RURAL DEVELOPMENT

April 21, 1993

Good morning Chairman English and members of the Subcommittee. I am Roland B. Geddes, Washington Representative of the National Association of State Conservation Agencies. We appreciate the opportunity to comment on this proposed legislation.

Our organization strongly supports the concept of a single, site-specific resource management plan to meet the various conservation or environmental plans required by the U.S. Department of Agriculture for agricultural land. We also agree with the concept of authorizing other federal agencies to enter into agreements with the Secretary of Agriculture to incorporate any conservation and environmental requirements of that agency with respect to agricultural land into the single site-specific plan.

We appreciate the provisions authorizing the Secretary to enter into agreements with any state whereby state or local government conservation and environmental requirements for agricultural land may be incorporated into the site-specific plan. This is especially important as states have adopted agricultural requirements to meet state priorities and comply with Sec. 319 of the Clean Water Act (nonpoint source water pollution) requirements. Recent amendments to the Coastal Zone Management Act require coastal states to adopt "enforceable measures" to address nonpoint source pollution. In many cases, these state "enforceable measures" will include new requirements for agricultural management plans.

Farmers are now complaining about the number of plans required by federal, state and local government. It is important that these required plans be consistent and where possible consolidated into the single site-specific plan.

We believe USDA, SCS is the appropriate agency to develop criteria, standards, specifications and regulations for the agricultural plans required by federal law and regulations; however, the priorities, criteria and specifications should be developed with full participation of federal and state agencies including state FSA technical committees. We are not sure the words "consult with federal and state agencies" are strong enough.

Although the SCS is the appropriate agency for establishing plan criteria and standards, individual plans may be written by the agricultural producer himself, agricultural consultants, agri-business employees, or employees of state or local governments including local soil and water conservation districts.

We recommend that provision be made in the law for local soil and water conservation district boards to, upon request, assume plan approval authority subject to SCS oversight to insure compliance with established criteria and specifications. We believe this provision makes regulation more palatable to our farmers.

We wish to emphasize that the concept we support applies only to those plans required or which may be required by other legislation and does not establish a requirement for a site-specific plan for all agricultural land in the country. While this is a worthwhile goal, such a requirement would be impractical and would not be the best use of resources.

We also believe the priority time frame of January 1, 1994 through December 31, 1994 is overly optimistic and should be extended.

Mr. Chairman, again we appreciate this opportunity and look forward to working with you, the committee staff and USDA in implementing this concept.

(Attachment follows:)



BRUCE JOHNSON, left, and Terri Muss have developed nutrient management plans for every acre Johnson farms in Virginia.

One of several factors

Economics encourage conservation

Conservation a way of life on this farm

By JIM HUDSON
Farm Press Editorial Staff

WEST POINT, Va. — A walk across Colgate Farm, here in the northern panhandle of Virginia, offers an education in responsible natural resource management.

Grassed waterways, filter strips, no-till, nutrient management plans, and a commitment to integrated management show a commitment to conserving and improving the soil and water.

This commitment to the land and water have always been there for Bruce Johnson, and his family. Conservation plans require the Food Security Act and the Chesapeake Bay Preservation Act essentially document the practices long in place on the 5,000 acres the Johnsons farm in Virginia and southern Maryland.

But Johnson, his wife and two brothers are frustrated that state and federal agencies continue to pile on more environmental regulations, threatening farmers who do not comply with the loss of farm programs and heavy fines.

Other requirements imposed by the Food Security Act are duplicated through requirements of the Chesapeake Bay Preservation Act.

Implementation of the Coastal Zone Management Act could add another layer of bureaucracy and

more paperwork to already overburdened farmers.

Johnson has a stack of farm conservation plan documents more than a foot thick, covering rents and leases on the land he and his family farm.

"We have worked very hard to do the best job we can, environmentally and economically," Johnson says.

"There are a lot of areas where we have exceeded the requirements of our conservation plans. We get no credit for that. But if we make our mistake, we are out of the programs. The emphasis is only on the one thing that might not be right that could pull us out of the programs. There is no effort to sell the positive."

"It bothers me that, in the eyes of the public and the eyes of environmental activists, farmers are some of the worst offenders in the land and destroying our resources, when in fact we are not. It is self defeating that our country is treating farmers almost like criminals. Farmers are getting the feeling that if we don't do every little task every T, we lose our programs," Johnson says.

"If the government is trying to get out of the farm program business, that is one thing. I just wish they would try to make it a little easier for farmers who are doing their best to follow the rules. I'm afraid some bureaucrats are trying to address a budgetary problem by making conservation compliance rules almost impossible to follow."

Part of Johnson's frustration

comes from the sheer volume of paperwork he has to deal with.

Because his family rents land from numerous landowners, they have to have 64 different conservation plans in Virginia and another 16 in Maryland.

One field in the town of West Point, Va., is made up of parcels owned by four separate owners.

Under current regulations, Johnson has to have a separate plan for each parcel, even though the farms fit four parcels as one field.

"I think all the information in the plans is good to have," Johnson says.

"But I don't think it is necessary to do so many plans for one farm. We need to focus on the problem and the technical assistance that is necessary to correct the problems. There is no need for all of this duplication that just wastes time and money and ties up the time of the people who could help farmers implement these plans."

Johnson is working with a committee in Virginia which is attempting to develop a total resource conservation plan combining the requirements and efforts of all agencies that are now working separately.

Their goal is to develop one conservation plan for each agricultural enterprise that meets the cumulative goals of each involved agency. Such a plan, once implemented, would cut down significantly on paperwork, freeing up employees to provide technical services necessary to make the plans work.

"Farmers know that conservation pays," Johnson says. "Economics has already done more to encourage responsible nutrient management than anything else."

"But it is tends now that nutrient management plans are becoming mandatory to receive funds. The state university (Virginia Tech) has started charging for soil samples. It costs us \$3,000 to \$5,000 a year just to get soil tests and tissue samples run."

Johnson has voluntarily worked with a conservation management specialist with the Virginia Department of Conservation and Recreation to develop nutrient management plans for all the land he farms. He keeps detailed records of his fertilizer recommendations, fertilizer applied, soil pH, and yields achieved.

"I have set up trend lines on pH, phosphate and potash so I can see the levels in each field. If a soil test shows a back border line, I can look at the trend line to decide whether or not I will apply more lime or fertilizer."

"The trend lines show me graphically the lime and fertilizer conditions in each field. It's silly and wasteful to apply something that's not needed, and it just wastes time to have to do something that is needed. We don't have the luxury of using the soil as a fertilizer bank. But we should not be prohibited from using as much fertilizer as our crops need."

He is concerned about a proposal from EPA that would limit

Profit a key to conservation goals

nitrogen applications to no more than one pound of nitrogen per bushel of corn production potential of a given soil.

"I understand their theory," he says. "But I disagree with them on the results. We no till corn in 28 inch rows. Our yields and therefore our profits are considerably different than someone who uses conventional tillage and 36 inch rows."

"We need flexibility in these nitrogen rates, based on soil types and cultural practices. We can't make the most efficient use of our inputs, we don't make a profit."

"We have multiple agencies, all with good intentions, involved with agriculture who sometimes forget that in order for farmers to accomplish their conservation goals, we have to have a profit."

"I think the agencies have bowed to the environmental activists and they have forgotten that we can't stay in business and grow food if we don't have needs if we don't make a profit."

Some well meaning individuals are proposing that pesticide use rates be restricted in certain

areas. Johnson contends that sometimes these people do not understand Integrated Pest Management and need based use of agricultural pesticides.

"We have been using IPM for years and it works," he says.

"We scoul and we use a pesticide when we really need it. One year we might not need any insecticide on our soybeans, for instance. That doesn't mean we will never need any insecticide in these fields. Weather conditions or other factors like the next year might cause some of us an insect problem that we have to spray more than once."

"We don't need some arbitrary set level of pesticide use. The people who are proposing these rules to understand need based use. We're not going to use more than we need, and we shouldn't be prohibited from using what we need."

Living as close as he does to Washington, D.C., Johnson has had several opportunities to host governmental visitors on his farm. Some of those visits have caused him to think that some of the

bureaucrats do not understand much about America's production agriculture system.

"One person from EPA was being somewhat complimentary about our operation and the things he saw we were doing. I think it was obvious, even to him, that we were trying our best to protect the soil and the water and still make a living here."

But in the next breath he asked, "What do we do about these people who can't read or write and don't farm?"

"I didn't know what to say that would make any sense to him. He must think we have a multitude of uneducated people out here farming who need these rules and policies to protect them and the environment."

"They obviously do not know what is going on on most farms."

"What we need is the research and the technical assistance to help us be more productive and to help us protect our environment," Johnson says.

"We try to plan in our operation with the total resource in mind. We seek out the expertise that is

available to help us make the best decisions. But when it comes to the federal farm programs, we don't have much choice. We go to the ASCS office and we do what they tell us to do."

"I want to emphasize that the people I deal with at the ASCS, the Division of Soil and Water, the local conservation districts, and the SCS are great. It is in their best interest that they know what the other agencies are doing."

"And it's not their fault when they can't offer technical assistance because of all the paper work they are forced to complete."

"I think the people there are ideal with layers and layers of people and more than one agency just to get anything accomplished."

Nutrient management specialist Moss says so many regulations tend to discourage some farmers from seeking technical advice.

"They are scared that if they ask someone from a government agency to come to their farm they will find something wrong that will cost them benefits," she says.

TESTIMONY BEFORE THE HOUSE AGRICULTURE SUBCOMMITTEE
ON ENVIRONMENT, CREDIT AND RURAL DEVELOPMENT
ON HR 1440, THE SITE-SPECIFIC AGRICULTURAL
RESOURCE MANAGEMENT ACT OF 1993

by

R. Max Peterson, Executive Vice President
International Association of Fish and Wildlife Agencies
April 21, 1993

Thank you, Mr. Chairman, for the opportunity to provide comment on HR 1440, the Site-Specific Agricultural Resource Management Act of 1993. The Association appreciates the focus and attention your bill has brought to the discussion of improving the delivery of regulatory and incentive programs for conservation purposes to the agricultural landowner. We understand that HR 1440 was introduced as a starting point for those discussions, and we appreciate the opportunity to share our reservations about the specifics of HR 1440 with you. We are not convinced that HR 1440 will simplify or even facilitate the consolidation of agricultural plans, but more importantly, in our opinion, HR 1440 may not fully maximize the widely embraced opportunities of the 1990 Farm Bill; that is, promoting sound stewardship of agricultural lands while ensuring viable agricultural commodity crop production.

The International Association of Fish and Wildlife Agencies, founded in 1902, is a quasi-governmental organization of public agencies charged with the protection and management of North America's fish and wildlife resources. The Association's governmental members include the fish and wildlife agencies of the states, provinces, and federal governments of the U.S., Canada, and Mexico. All 50 states are members. The Association has been a key organization in promoting sound resource management and strengthening federal, state, and private cooperation in protecting and managing fish and wildlife and their habitats in the public interest.

As you are aware, Mr. Chairman, the Association played a key role in bringing conservation and agricultural interests together during the 1990 Farm Bill deliberations. We fully appreciate the role of the agricultural landowner in the stewardship of fish and wildlife resources and their habitats. We also sincerely appreciate your efforts, and those of this subcommittee, in building and maintaining a consensus from conservation and agricultural groups which ultimately was passed by the Congress in the 1990 FACT. It is with that spirit of consensus and partnership that we wish to engage in a constructive critique of HR 1440 with you. Let me also make a commitment that the Association will continue to work with you to facilitate improvement of the process of assisting agricultural landowners in natural resource stewardship of their lands.

As an overall observation, it is not clear to us how HR 1440, and its consolidation of responsibilities under SCS, comports with the Administration's recently released proposal to create a Farmer Services Agency in the USDA by combining SCS, ASCS, and FmHA. The President's budget also calls for a reduction of 23% in staffing over the next five years for those agencies which would be consolidated under the FSA. Given the implications of substantially increased workload for SCS under HR 1440, we are not sure how the budget reductions and

proposed consolidation of agency responsibilities in the President's budget would relate to the responsibilities directed by HR 1440. While the Association has not taken a position on the FSA proposal yet, we would urge both Congress and the Administration to give thoughtful consideration to the implications of any proposed reorganization represented by either legislation or administrative action. I will later share some of our thoughts on this subject with you.

The Association appreciates the funding that Congress has provided to encourage conservation stewardship of agricultural lands through many programs, and recognizes that, while not all conservation plans have been completed, significant progress has been achieved. We need now to focus on ensuring implementation of and compliance with those plans.

The Association recognizes that farmers and agricultural landowners need the technical assistance of the natural resource conservation agencies (including SCS) to implement the many farm plans required at all levels of government once they are prepared. However, when the responsibilities for technical assistance cannot be met now, it is not clear how HR 1440 would facilitate the implementation of existing plans after SCS has been given the additional responsibilities of shepherding comprehensive site-specific resource management plans, as required by the proposal.

As you are aware, Mr. Chairman, agricultural landowners frequently are required to meet state environmental standards, or have opportunities to enroll in conservation incentive programs at the state level, in addition to Federal programs. While the opportunity to enter into an MOU with States (or other Federal agencies) is discretionary in HR 1440, as a general observation, many states are constitutionally precluded from delegating their responsibilities to the Federal government. And, quite frankly, our member State fish and wildlife agencies, and the fish and wildlife resources that they are statutorily responsible for, benefit significantly from maintaining that one-to-one contact and relationship with the private agricultural landowners. In all frankness, we are not convinced that, even by creating a much enhanced SCS staff and budget, the same level of fish and wildlife and habitat conservation expertise would be delivered to the agricultural landowner. We also respectfully suggest that other (than USDA) Federal agencies would be reluctant to turn over their statutory responsibilities to SCS.

Finally, Mr. Chairman, we would like to bring to your attention our perceptions of the shortcomings contained in the section providing liability protection to the agricultural landowner who has applied, or is implementing, a comprehensive resource management plan. We conclude that this section misses an opportunity to maximize the balance between commodity crop production and conservation stewardship. Elements missing from this section are standards for determining what constitutes proper application or implementation of the plan, timetables to ensure prompt implementation, and direction to SCS on enforcement of compliance with the plan. This section also clearly places SCS in a regulatory mode with agricultural landowners, a role which the agency itself may be reluctant to assume.

Let me now turn to the subject of the overall reorganization of the USDA as it relates

to the natural resource conservation programs. The Association is concerned (as I am sure that you are) about the recent Administration proposal which would consolidate an agency with largely financial assistance responsibilities (FmHA) with those (SCS, ASCS) delivering technical assistance for natural resources conservation to agricultural landowners. The Association, working with other conservation organizations in town, has developed a set of working principles on USDA reorganization which I have attached to our testimony.

Our principles are founded in the following premises:

- 1) Any reorganization of the Department needs to retain local focus to promote good natural resource stewardship. Conservation programs must be elevated to a top priority within the Department.
- 2) Any reorganization of the Department needs to strongly consider the intended clients and customers of the various services currently being provided; it should be predicated upon a user approach that is necessary for success.
- 3) Agencies with strong technical assistance and quasi-regulatory roles for conservation and environmental programs would better serve the purposes of the conservation programs and the producers and citizens who benefit from these programs, if they are administered separately from financial assistance and production related payment programs.
- 4) Reorganization of the Department of Agriculture must provide for strong consideration and involvement of affected local and state governmental units.
- 5) USDA should expand the use of incentive-based approaches to natural resource management.
- 6) Federal and state agencies in other departments have expertise which will be essential for the new organization to function, such as Department of Interior's U.S. Fish and Wildlife Service, etc.

You can read in the attachment the organizational structure we are suggesting for a USDA Natural Resources and Environment organization at the undersecretary level. The Association would be pleased to continue a dialogue with you on this subject at your convenience.

In summary, Mr. Chairman, the Association sincerely appreciates the opportunity to discuss with your subcommittee proposals to improve the natural resources agencies' assistance to agricultural landowners to ensure wise and proper stewardship of their land. While we retain serious reservation about the utility of HR 1440 to accomplish this objective, we are vitally interested in continuing to assist you in achieving this most worthwhile goal.

(Attachment follows:)

**PROPOSED PRINCIPLES FOR
U.S. DEPARTMENT OF AGRICULTURE REORGANIZATION
PROPOSED FOR THE NATURAL RESOURCES WORKING GROUP**

The Natural Resources Working Group supports a cost-effective and efficient organization that helps achieve the mission of USDA. Further the group supports a collaborative process (agency and public input) to identify the mission of USDA and how it is to be achieved organizationally. Specifically:

- 1) Any reorganization of the Department needs to retain local focus to promote good natural resource stewardship. Conservation programs must be elevated to a top priority within the Department.
- 2) Any reorganization of the Department needs to strongly consider the intended clients and customers of the various services currently being provided; it should be predicated upon a user approach that is necessary for success.
- 3) Agencies with strong technical assistance and quasi-regulatory roles for conservation and environmental programs would better serve the purposes of the conservation programs and the producers and citizens who benefit from these programs, if they are administered separately from financial assistance and production related payment.
- 4) Reorganization of the Department of Agriculture must provide for strong consideration and involvement of affected local and state governmental units. USDA must recognize and utilize the resources and authorities of other federal, state and local conservation agencies. The value of cooperative arrangements such as Conservation Districts, State Foresters, and State Fish and Wildlife Agencies for delivery of conservation programs should be recognized in any reorganization.
- 5) USDA should expand the use of incentive-based approaches to natural resource management.
- 6) Other federal and state agencies in other departments have expertise which will be essential for the new organization to function, such as Department of Interior's U.S. Fish and Wildlife Service, etc.
- 7) Seek opportunities to improve the effectiveness of USDA services to its customers. These changes ought to be made consistent with the mission of USDA through a public input process.

Presented below is an organizational structure which the Natural Resources Working Group feels reflects the above mentioned principles:

Department of Agriculture:

Composition -- The Department of Agriculture's conservation and environmental programs should be clustered under a Natural Resources and Environmental grouping comprised of:¹

- 1) the Soil Conservation Service
- 2) the Forest Service
- 3) the Agricultural Research Service
- 4) the Cooperative State Research Service
- 5) the Extension Service
- 6) the ACP and other conservation cost share program components of the Agricultural Stabilization and Conservation Service
- 7) Wildlife Damage Control Program

Further, the Working Group proposed an Undersecretarial administration approach:

Undersecretary of Agriculture for Natural Resources and the Environment, appointed from civilian life by the President, by and with the advice and consent of the Senate.

Duties -- The Undersecretary of Agriculture for Natural Resources and the Environment shall have jurisdictions for programs of the Department of Agriculture related to natural resources, conservation and the environment, including the agencies noted above.

reorg.1

¹The National Association of Conservation Districts declined to agree to the grouping, and maintained that this approach was too prescriptive and failed to focus on the "big picture."



NATIONAL ASSOCIATION OF STATE FORESTERS

444 North Capitol Street, NW Suite 540 Washington, D.C. 20001 202/624-5415
Statement of

The National Association of State Foresters

Presented by

Gerald A. Rose,
Minnesota State Forester

Before the Committee on Agriculture

Subcommittee on Environment, Credit and Rural Development

on

H.R. 1440 : "The Site-Specific Agricultural Resource Management Act of 1993"

April 21, 1993

Good morning Mr. Chairman and members of the Subcommittee. My name is Jerry Rose and I am here today representing the National Association of State Foresters. I am the State Forester of Minnesota and serve as chairman of the National Association of State Foresters' Resource Management Committee.

Our organization represents the directors of forestry agencies from the fifty states and three U.S. territories (Guam, Puerto Rico, and the U.S. Virgin Islands). In that capacity, we are responsible for providing services and protection to more than 75 percent of the Nation's forests, the majority of which are owned by non-industrial private landowners.

Founded in 1920, NASF's mission includes promoting cooperation on forestry matters between the states, territories, Federal government and other forestry interests. In addition, NASF develops and promotes legislation, programs and activities which will advance forest stewardship management and the use and conservation of all forest resources.

We appreciate the opportunity to present our comments to the committee on this proposed legislation. Our organization supports the concept of a single, site specific resource management planning for agricultural lands as intended by H.R. 1440. Efforts to coordinate and streamline services to the public are badly needed and are to be commended. However, as this committee deliberates on the best means to this end, we would raise several concerns for your consideration.

Before I do this, I would like to emphasize that State Foresters, in partnership with the USDA Forest Service, already actively support an integrated approach to planning on private lands. This is the basis for the Forest Stewardship Program which we worked to establish four years ago (authorized under the Forestry Title of the 1990 Farm Act) and which has ensured that more than 3.7 million acres of non-industrial private forest lands nationwide now have comprehensive forest resource management plans. State Foresters and the Forest Service have actively worked to make Forest Stewardship Plans compatible with other national conservation plans. For example, Tree Farms, and Conservation Reserve Program future planting sing-ups are incorporated into Stewardship Plans; some states are actively integrating Stewardship plans into total farm plans.

Participation in the Forest Stewardship Program is voluntary. Plans are developed by resource professionals working closely with landowners to incorporate their objectives on a site by site basis. Experience has demonstrated that landowners often have objectives beyond traditional timber management activities. Stewardship plans typically address multiple forest resources, including reforestation/aforestation, forest stand management, soil and water quality management, fish and wildlife habitat enhancement and recreational activities. In Minnesota, Stewardship Plans are specifically developed with regional landscape goals and concerns in mind. Landowners with approved plans are eligible to apply for cost-share assistance through the Forest Stewardship Incentives Program to implement their Stewardship plans. I would note, however, a major difference between Stewardship plans and those that would be developed under this legislation is that Stewardship plans do not place any form of regulatory requirement on landowners. On the other hand, H.R. 1440 is trying to consolidate regulatory requirements that landowners must already meet.

Another unique component to the Forest Stewardship Program is the delivery process. It is based upon working in partnership with existing agencies, organizations and programs. The success story is based upon establishing standards and guidelines and empowering partners; not just at the national level but also at the state and even local level.

State forestry agencies provide assistance (technical, educational and financial) to landowners using their employees and resources under guidance and support of the USDA Forest Service State and Private Forestry program. Duplication in technical staffing and program implementation is avoided. NASF believes this is an extremely useful model through which the federal government provides efficient and cost-effective services to the public. We encourage this committee to consider the Forest Stewardship Program as model for the legislation under consideration today. We further encourage this committee, Congress and the Administration to review the U.S. Forest Service/State Forester Partnership as a potential model as discussions on reorganization of the U.S. Department of Agriculture proceed. We believe you will find a decentralized and streamlined approach that reduces the need for a federal presence at the state and local level while still meeting the needs and providing services to the public. Such a delivery process seems most appropriate for the changing situations of our nation's rural agricultural and forested lands.

I would like to now make some specific comments on H.R. 1440:

NASF strongly believes that it should be a primary policy of the USDA to promote the integration and coordination of all natural resource managers and regulations at every level of government to ensure landowners receive comprehensive advise and expertise. This should occur in particular among USDA agencies. Integration and streamlining will be an incentive for landowners to practice good stewardship on their lands whether they are agriculture or forested. Policies should be 'friendly' and flexible to allow for varying state needs and constraints. State Foresters and USDA agencies have already initiated efforts in some states to make forestry plans part of the total farm plan. These kinds of efforts need to be encouraged. Perhaps it would be useful to consider what kind of incentives would be effective in promoting such a USDA policy.

Forestry --as well as fish and wildlife -- expertise and advise is generally available through state and local agencies and the private sector. Many states have a long history in service forestry; all states have the capability through the Forest Stewardship program. NASF feels strongly that this is the best approach to working with private forest landowners. Although the legislation's definition of "agricultural lands" does not include forest or timber lands, it does specifically exclude federal forest lands. The legislation further stipulates that "all requests for cost-sharing or other assistance available under any program or activity" of USDA with respect to a conservation practice on agricultural land shall be made through and ap-

proved by the Soil Conservation Service. NASF is very concerned that, as written, the legislation would preempt a system that is currently very effective in delivering services to private forest land owners.

Both the Forest Stewardship and Stewardship Incentives programs are USDA programs that provide technical and cost-share assistance. Neither imposes regulatory requirements (a landowner who receives cost-share assistance must agree to follow the components of the stewardship plan for ten years or reimburse the government). As discussed earlier, these programs and others are delivered through state forestry organizations in an efficient and effective manner. Caution should be exercised so as to not to create a new delivery system with new expertise and a completely different orientation when a delivery mechanism already exists. NASF does not wish to see the current program structure altered. Therefore we recommend that the scope of this legislation should specifically exclude State & Private Forestry and Cooperative Forestry programs of the USDA Forest Service.

Other concerns of NASF include:

The complexity of environmental protection, conservation, and cost-share incentives laws (Coastal Zone Management Act, Clean Water Act, Endangered Species, Clean Air...) go far beyond the authorities and expertise with the Department of Agriculture. To consider giving one agency such authority seems unrealistic, costly and could duplicate services. NASF would also point out that many state agencies are probably prohibited from transferring their authorities to another governmental entity without specific legislation.

The Soil Conservation Service (SCS) may be the appropriate agency within USDA to develop criteria, standards, specifications and regulations for agricultural plans required by federal law and regulations, but the priorities, criteria and specifications should be developed with full participation of federal and state agencies including the state technical committees created by the Food Security Act. We are not sure the words "consult with federal and state agencies" are strong enough to ensure adequate cooperation.

This bill has the potential to generate a large volume of new or "revised" plans to bring existing documentation into line with the regulations which will be written. Consolidation does not necessarily equal simplification. (For example, SCS currently has technical assistance responsibility for windbreaks, but in some large farm states, they cannot handle the workloads. This responsibility is deferred to others such as conservation districts.)

The time frame outlined within the legislation is overly ambitious. Priority should be on quality as well as quantity of plans. SCS, as any other federal, state or local natural resource agencies, is faced with limited resources for the responsibilities that must be met. Substantial funding increases would be necessary to meet the objectives of H.R. 1440. We are not certain additional funds are going to be available to carry out current SCS programs as well as take on these new responsibilities.

NASF Recommendations

NASF looks forward to working with the committee to accomplish the objectives sought under this legislation. We encourage the committee to consider the following recommendations:

- To clarify that H.R. 1440 is not intended to affect programs of the USDA Forest Service and avoid statutory complications with State and local government forestry laws and authorities, NASF recommends that the definition of "agricultural land" be modified to include the following "Nothing in this Act shall affect the programs of the USDA Forest Service, Cooperative

Forestry Assistance Act of 1978, the Forest and Rangeland Renewable Resources Research Act of 1978, and sections 2371-2379 of the Food, Agriculture, Conservation and Trade Act of 1990."

- NASF recommends strengthening regional, state and local mechanisms to address conservation issues on a case-by-case basis – a collaborative process rather than a legislated process.
- NASF supports efforts within USDA and within state governments to better coordinate overall programs but believe this can be accomplished through administrative processes and regulations rather than law.
- NASF recommends that the criteria and priorities for site specific plans be developed with appropriate involvement of state and local governments. It is important to recognize that in some cases individual plans may be written by individuals or organizations other than federal employees; for example state or local government, including local soil and conservation districts, agricultural consultants, agri-business employees.

In conclusion, while the State Foresters support the concept of H.R. 1440, we have serious concerns that, as written, it would disrupt a system that could otherwise serve as a model to achieve it's objectives. We look forward to working with this committee to seek ways of using existing partnerships with the USDA, and empowering other state and local agencies to work with the federal government in meeting the needs of the American people.



NACD

Statement of the
National Association of Conservation Districts
Before the
House Committee on Agriculture
Subcommittee on Environment, Credit & Rural Development
Regarding H.R. 1440
The Site-Specific Agricultural Resource Management Act
Of 1993
April 21, 1993

The National Association of Conservation Districts (NACD) is pleased to appear here today on behalf of the nation's nearly 3,000 local conservation districts to offer our views and recommendations regarding H.R. 1440, The Site-Specific Agricultural Resources Management Act of 1993.

Conservation districts are independent, special purpose units of local government that coordinate and carry out comprehensive, natural resource management programs that address forest and rangeland management, wetland protection and enhancement, agricultural and urban erosion and sediment control, wildlife and fish habitat management, and nonpoint source pollution prevention and abatement for the protection of ground and surface water quality.

Conservation districts have been involved in implementing conservation programs and measures for more than 50 years. They have played important roles in many federal programs including the 1985 and 1990 Farm Bills, the Clean Water Act, the Small Watersheds Program and others. In fact, conservation districts were conceived in 1937 to assist in the coordination and local delivery of federal soil and water conservation programs. Since then, conservation districts and the Soil Conservation Service (SCS), have shared information, resources and staff in addressing many of our nation's natural resource conservation and management issues.

Throughout their nearly 60-year history, conservation districts and state conservation agencies have worked cooperatively with SCS in bringing this conservation technical assistance to the local level. As a result of this arrangement, districts, state conservation agencies and SCS have developed a true partnership—sharing many resources and pursuing a common goal. Today, there are nearly 7,000 conservation district employees working side by side with SCS's 6,500-plus field employees.

The success of this team approach to conservation and natural resource management is based on using voluntary, incentive-driven programs in helping landowners and landusers protect their soil and water resources. Today this conservation partnership provides technical and other assistance to two-and-a-half million cooperators who manage more than one billion acres of privately owned land.

For a number of years, conservation districts have been concerned with the increasing number of single-purpose plans required of farmers under federal and state conservation and environmental laws and regulations. Under various programs land managers are required to develop erosion and sediment control plans, nutrient management plans, pesticide management plans, fish and wildlife habitat conservation plans, wetlands restoration and enhancement plans, grazing management plans and the list goes on. In some instances, as many as 15 different plans are required by various conservation and environmental statutes.

It's hardly surprising that farmers and ranchers increasingly find themselves frustrated at the sheer volume of paperwork they have to deal with — not to mention time and expense. NACD believes that the time is ripe for moving away from this narrow focus and toward the concept of holistic resource management planning.

NACD commends the subcommittee for moving in this direction. We also commend the insight the chairman shows in bringing this concept to a national forum.

THE NEED FOR A HOLISTIC APPROACH TO RESOURCE MANAGEMENT

As noted in the findings of the bill, agricultural land users have the responsibility to implement a number of plans to promote conservation and various environmental benefits. There are as many as fifteen different programs requiring plans within the Department of Agriculture. Some agricultural land users may have six different plans to implement for conservation and environmental purposes.

Even with the best attempts at planning and coordination, there remain times when different program requirements are contradictory and send mixed messages due to the number of plans involved. Further, future legislation such as the reauthorization of the Clean Water and Endangered Species Acts, Safe Drinking Water Act and the 1995 Farm Bill will likely complicate the problem.

In addition to land user problems with multiple plan requirements, the agencies responsible providing assistance in planning and implementing the various plans often have difficulty coordinating the different program elements. The primary agency responsible for delivering many USDA conservation programs, the Soil Conservation Service, often experiences difficulty in developing plan recommendations without contradicting or duplicating other existing USDA plan requirements.

Conservation districts are affected by these many requirements as well. Serving as the local coordinator for many USDA plan requirements, the local district provides direction, as well as technical assistance, in helping land users meet the requirements for plan implementation and program participation.

In consideration of the complicated nature of multiple plan requirements, districts strongly support the concept of holistic natural resource planning and management. NACD believes the single, site specific plan requirement would help alleviate some of the burdens placed on both the land user and SCS and its cooperating partners.

The concept of consolidating resource management plans has many merits, not the least being that it encourages an integrated, holistic approach to natural resource management — an idea embraced by conservation districts for years. NACD applauds streamlining of the planning process by establishing a single federal agency responsible for working with other federal agencies and land users for the implementation of resource management plans. In addition to reducing costs, it will probably improve the quality of the plans developed.

Another merit of the bill is its site-specific approach to resource management planning. Management measures and recommendations vary from location to location. H.R. 1440 takes into consideration the need to evaluate resource management based on the requirements of a particular area or site; not a blanket approach.

The measure also promotes expanding cooperation between federal, state and local governments. By authorizing the Secretary of Agriculture to enter into agreements with other federal, state and local government entities, H.R. 1440 promotes enhanced cooperation and coordination in natural resource planning. Such improved coordination and cooperation will save needed dollars by taking steps to minimize duplication, redundancy and administrative cost among various levels of government. NACD also applauds the inclusion of state technical committees established by the 1985 Farm Bill.

NACD endorses the liability protection provisions of the bill, but we have reservations that, as proposed in the draft, they may be too broad. Providing liability protection for producers who are implementing plans as prescribed is a laudable goal. However, provisions need to be made to ensure that off-site damages are not occurring after the specified plan is developed and implemented.

RECOMMENDATIONS

Although NACD supports the intent and concept of H.R. 1440, there are some significant implications that must be considered. NACD's primary concern is the need to include local conservation districts in plan approval within the bill.

Conservation districts provide a valuable system of checks and balances in conservation plan development and approval. District officials ensure that measures and practices called for in a plan are sensitive to local unique needs and conditions, and based on the local SCS Field Office Technical Guide. This ensures that soil, water and air resources are managed according to the best available technology in accordance with state and local ordinances.

NACD is concerned that the bill is too narrow in requiring SCS to develop all of the plans addressed in this proposal. Rather, NACD suggests that the bill require the plans to be consistent with the engineering and other technical standards and specifications of SCS. With this change, conservation districts, for example, could develop the called-for plans based on SCS technical standards.

Another important concern to districts is the time frame assigned by the bill. The measure provides that during the period from January 1, 1994, through December 31, 1994, SCS shall give priority to developing single comprehensive plans requested by land users, as well as those plans in SCS-designated environmentally critical areas. Although we commend the intent of these provisions, the workload generated by such an effort, combined with Farm Bill conservation compliance deadlines, could easily overwhelm the already overburdened delivery system of SCS and districts.

H.R. 1440 needs to more strongly emphasize the interaction between SCS and other federal agencies in plan development. Federal agencies such as the U.S. Fish and Wildlife Service, the USDA Forest Service and Agricultural Extension Service can provide valuable technical expertise in managing resources on a site-specific basis.

In addition to the concept of single, comprehensive site-specific plan requirements, NACD believes there must be a renewed commitment to soil and water conservation programs by both land users and the public.

The present, compliance-driven approach to our conservation programs has one important drawback: Conservation systems are required, not necessarily on farms with conservation problems, but on farms that participate in USDA farm programs. These are not always the same farms.

Further, with most indicators pointing to the eventual winding down of commodity support programs, our federal conservation programs will need to shift away from this compliance orientation if we want to keep producers involved.

NACD believes that a "green ticket," or environmental credits, approach should be the new engine behind our conservation programs. This approach would provide financial incentives for land users who voluntarily apply and maintain comprehensive site-specific conservation systems on their lands. By providing economic incentives in addition to our current cost-share and technical assistance programs, we believe we would see more conservation on the land.

Finally, and perhaps most importantly, we are compelled to point out the magnitude of the task we would be undertaking with the enactment of H.R. 1440. We believe this proposal would add significantly to the workload of SCS and conservation districts. Given the fact that NACD and USDA studies show that substantial increases in technical assistance are needed at the field level, we believe that Congress should approach this new requirement fully aware of the tremendous workload that will be placed on an already overburdened delivery system.

Our most recent survey of conservation districts found that an additional 10,000 conservation technicians are needed at the field level to adequately carry out Farm Bill, Coastal Zone, Clean Water Act and other federal, state and local programs. The additional requirements of H.R. 1440 would only add to that workload.

We would like to point out that without significant increases in resources to carry out these requirements, this program simply will not work. As we stated earlier, the concept sounds good on paper, but we must have the resources to implement it. Despite its good intentions, without additional resources to carry it out, it will probably find little support in the field.

NACD appreciates the opportunity to present our views to the subcommittee. America's conservation districts stand ready to assist wherever possible in promoting this important concept.

National  Audubon Society



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STATEMENT

BEFORE

THE SUBCOMMITTEE ON ENVIRONMENT, CREDIT AND RURAL
DEVELOPMENT

HOUSE COMMITTEE ON AGRICULTURE

April 21, 1993

on

H.R. 1440

THE SITE-SPECIFIC AGRICULTURAL RESOURCES MANAGEMENT ACT
OF 1993

Maureen Kuwano Hinkle
Director
Agricultural Policy

Mr. Chairman, and distinguished members of this subcommittee, the National Audubon Society appreciates the opportunity to testify at the hearings you have called to discuss comprehensive integrated resource management plans for our nation's farmers. It has been our pleasure to work with you on the 1985 and 1990 Farm Acts, a culmination of long and sustained effort on the part of our organization, from our grassroots through the commitment of resources at the national level. Among our 600,000 members and our Board of Directors, we have farmers and volunteers trained in the careful observation and treatment of our environment. The President of National Audubon, Peter Berle, is a farmer, and farmers are on staff among our 80 sanctuaries across the nation. At the national level, we have a consistent effort in lobbying, administrative implementation, and grassroots involvement. These efforts stem from a belief that farmers and environmentalists can work together successfully for policies of mutual benefit.

Mr. Chairman, we commend you for initiating HR 1440 -- a bold new initiative holding promise to bring about programmatic coherence, bureaucratic efficiency and to eliminate unnecessary rivalries among service agencies.

Farmers have told me that farming was more fun 30 years ago than today. Farm programs have grown in complexity, and no doubt changes in directives aimed at farmers have only added frustration and confusion to a job that is already as difficult and demanding as any job could be.

H.R. 1440 aims to make more efficient and effective the coordination of federal, state and local conservation and environmental requirements on individual land units, while recognizing and providing for the site-specific nature of problems facing any modern farmer. This is an inherently complex goal, and our comments are respectfully submitted to help make efficient, effective and coherent planning a reality for farmers.

Resources and budget.

The first question is how can the SCS, or the Farm Service Agency that is proposed to subsume the SCS, effect coordination and

site specific planning if the proposed budget cut in resources and personnel takes place? As former SCS Chief, Norm Berg, pointed out in his April 1st testimony before this subcommittee, SCS has been involved in planning for nearly 60 years, and from the earliest days SCS promoted the concept of a comprehensive plan. Mr. Berg emphasized that ambitious goals without adequate resources and funds are doomed. How can such wholesale comprehensive planning be done in the face of inevitable budget cuts?

Program sacrifice?

Will farmers have to choose which problems to address and which to ignore? Will the SCS/FSA have to decide which ones to fund or assist and which ones to neglect or postpone? When Congress gave SCS the authority to develop Water Quality Incentive Plans in the 1990 FACTA, USDA administered the program through the ACP, forcing farmers to choose between erosion or water quality problems unless the same practice(s) addressed both problems. If this kind of choice is replicated it would lead to more fragmentation thereby defeating goals for comprehensive plans.

Galen Bridge, acting SCS Chief, testified at the appropriations subcommittee on March 30th that we need a comprehensive approach for the proliferation of programs requiring the development of from 15 to 20 separate plans for problems like erosion or wetlands. He said, "We need to tuck these back together in a comprehensive package and pick out the most important to subsidize." Of course, all programs are not needed on every site, but who would decide which ones to cut, and what would be the criteria?

Targeting.

Most of the programs on SCS' list of 20 separate plans were designed for specific problems. We need to ensure that programs do not lose their focus and essential purpose. Where the existing structure works well, will it be preserved? The WRP was on the SCS list of 20 programs in need of being "tucked together." Would the new site-specific plan coordinate and develop future Wetland Reserve Plans of Operation (WRPO) for farmers' easements?

Targeting technical assistance to problem areas is an efficient use of funds. In contrast, it is a waste of taxpayers money to distribute funds regardless of need, or to postpone problems until

they become emergencies in need of huge sums. We need assurance that funds and technical assistance are targeted efficiently and in a timely way.

Lead agency and its message

SCS has a long history of stewardship work, as Norm Berg reminded us in his statement. The recent semi-regulatory role given SCS by the 1985 Food Security Act, however, tested that agency in ways that raise questions as to the wisdom of naming SCS as the lead agency for site-specific plans.

SCS suffered profound morale problems under the direction of Wilson Scaling, SCS Chief in the late 1980s. His directive to utilize alternative systems for conservation compliance to bring about the widest compliance reduced the planning process to its lowest common denominator. That policy together with the current lack of enforcement of conservation compliance by SCS actually protects recalcitrant farmers instead of rewarding the best farmers. This is a dreadful message that has demoralized much of the professional SCS staff. Moreover, Richard Durbin, new chairman of the House Appropriations subcommittee in charge of agriculture, told SCS on March 30, 1993, your message to farmers seems to be -- don't worry, SCS won't check anyway, and even if you're penalized chances are you will get off the hook.

Conservation compliance was intended to target technical assistance to those croplands that need assistance. US agriculture can maintain competitiveness only by rewarding our best producers and encouraging them to be optimal managers, not by letting them off the hook * The challenge for H.R. 1440 is to let producers know that they are going to get a comprehensive plan that will help them to be the best managers possible, and that their full cooperation is essential.

* At the March 30, 1993 appropriations subcommittee hearing, SCS Chief, Galen Bridge, claimed that conservation compliance could not be enforced because of potential backlash from farmers to which Chairman Richard Durbin said that the growing sentiment was to "gouge out" food stamp recipients who abuse the system, why should farmers be treated differently?

Plan development.

Who will help farmers develop comprehensive plans? Are there sufficient experts who can diagnose problems and seek appropriate solutions for the planning process?

For the last two years, at the behest of the appropriations subcommittee on agriculture, agrichemical dealers have been allowed to help farmers develop WQIP plans on the grounds that there are insufficient numbers of Extension Service or SCS officials or independent crop consultants. Without an adequate infrastructure, expediency drives the process which then substitutes for the goal. As the SCS/FSA faces reduction in resources, will the most available resource in the private sector, i.e., agchem dealers, provide the manpower?

Performance and evaluation.

Is evaluation to be conducted? What is the penalty for failure to perform? Self certification failed conservation compliance, and should not be allowed again.

Comprehensive resource management planning.

A comprehensive planning process should be phased in, building on the next two final years of the conservation compliance plans, as Robin Marks (April 1, 1993 statement for NRDC before this committee) suggested, and broad input should be sought as to what such a process should be. A team of multidisciplinary experts knowledgeable about basin-wide as well as local pollution problems and solutions needs to be assembled. Such a team should include state and university planning experts who have experience with integrated pest management plans, ground water protection and nutrient management plans. The team should also include local and state experts and environmental groups.

There are many programs that offer great potential for more efficient and cost effective agriculture. Examples follow.

A computerized program designed to help farmers figure out what chemicals to use to protect water quality has been in use in Florida since 1986. Developed by D. L. Nofziger and Arthur G.

Hornsby, the model estimates the location of the peak concentration of non-polar organic chemicals as they move through soil in response to downward movement of water. The model also estimates the relative amount of each chemical still remaining in the soil at any time, and enables the user to simulate movement of the chemical for up to 15 years! Such a program is of obvious interest to Floridians, but Dr. Hornsby says his program can be designed for other geographical areas.

Prescription farming is a project involving 40 farmers with 10,500 acres in Missouri that fine tunes fertilizer and chemical use to *actual* field needs. A combine equiped with a grain flow monitor treats particular areas of a field with only what is needed at that spot. Crop yields in a single field can vary as much as 50 percent, depending on the level of nutrients available in the soil at a given spot. The cooperators include the University of Missouri, the ARS, the SCS, EPA and the Missouri DNR. A report on this project by agricultural engineers Kenneth A. Sudduth or Steve Borgelt can be obtained from Linda Cooke at 309-681-6530 or Leslie Parker at 202-720-4026.

Prescriptive pesticide use similar to prescriptions written by physicians is another potential aid to the planning process. Further information can be obtained from Leon G. Higley at the University of Nebraska at 402-472-8689 or 2123.

Commodity groups have funded cooperative IPM programs. One excellent example is that recently reported by the California Citrus Research Board, the State Energy Commission and USDA's OICD. These agencies produced a program to establish IPM programs in citrus orchards evaluating the economics and energy use as part of the program. The results were very dramatic and successful. (UC IPM Publication 15, call 916-752-4162 for 61-page report)

Integrated Crop Management (ICM) Program. In late 1989 the ASCS launched a specific practice to encourage IPM in 45 states and 241 counties. This program aimed to introduce producers to environmentally sound and sustainable practices. The ICM sought to expand the best aspects of classical integrated pest management to include soil and nutrient management programs. ACP cost share assistance was provided to cover some of the cost of developing and implementing an ICM plan and to offset costs associated with paying for an independent crop consultant to develop a more efficient use of

pesticides and nutrients. After the first two years of the three year program, approximately \$2.5 million was provided to producers voluntarily implementing ICM plans on 350,000 acres.

An evaluation concluded that reduced nutrient application resulted from soil and leaf analyses. Participants repeatedly found that soil tests indicated more nutrients remaining in the soil than the participants had anticipated. The second conclusion was that *this type of transition to more efficient input use takes time*. It cannot be expected to occur successfully in a single year or even in two years, but *evaluation is absolutely essential to measure progress and instruct the course of a meaningful planning process*. Accurate recordkeeping was found to be essential. (for information on this evaluation contact Mike Linsinbigler at 202-690-0224)

Each of these examples argue for involving as many experts as possible. Any comprehensive single plan that is site specific for the land involved must include input from local entities and the best disciplines available so each can learn from the best of others experience. The process should build on the best. H.R. 1440 needs to encourage (as opposed to discourage) the creativity of scientists, other USDA agencies, federal, state and local initiatives regarding supplementary programs.

Timing

Sec. (c)(3) states "On or after January 1, 1996, a single comprehensive site-specific plan shall be in place with respect to any agricultural land for which more than one plan is required by agencies of the Department of Agriculture," and Sec. (c)(4) would require development of plans during calendar 1994--the final year for conservation compliance. Even if conservation compliance were not still in the process, it is not realistic to expect that single comprehensive site-specific plans could be in place so quickly. H.R. 1440 must not give farmers any hint that plans might be changed in the final year of conservation compliance.

Funding

It is desirable for a single site to have coordination of requirements and cost-share availability. Sec. (c)(7) would coordinate, with the single comprehensive plan, any cost-sharing previously available from the state or subdivision. If states and

localities interpret this coordination as relieving them of the financial and substantive responsibility for helping agriculture, farmers could be deprived of some of the help they need. States and localities are scrambling for funds to implement environmental mandates. They are unlikely to devote funds for activities to be coordinated by the federal government.

One approach might be to give states and localities matching funds for programs such as Minnesota's Reinvest in Minnesota (RIM) wetlands program. For many years Nebraska has had Acres-for-Wildlife cost-sharing, several Eastern states have established programs for streamside filterstrips, etc. In some states there have been cooperative programs involving commodities and processors cost-sharing programs. Audubon urges encouragement of *diverse* sources of funding and ingenuity at the state and local level.

Liability

The big incentive, the big carrot, in HR 1440 is the liability waiver under Subsection (h). Farmers would be "deemed to be in compliance with all conservation and environmental requirements covered by the plan with respect to such land unit." The plan content becomes extremely critical with so much resting on it. Compliance with the plan, which could be expected to include nutrient management, pesticide management and water quality, must be verifiable.

There was controversy over liability in 1986 when the American Farm Bureau and others inserted into FIFRA proposals, a liability waiver which would have exempted an agricultural producer from any action brought under any Federal statute for damages caused by pesticide use unless the producer acted negligently, recklessly or intentionally. Proof that a pesticide was applied in a manner consistent with label instructions would create a rebuttable assumption that those provisions of the Act have not been violated.

This limited liability waiver from all other Federal statutes brought on the firm and unyielding opposition of several members of the Senate Environment and Public Works Committee. This waiver (along with federal preemption) sank any hope for enactment of the entire package in the 100th congress. Attachment A and B are two reports done for the Senate Agriculture Committee on liability waivers for your use in addressing this issue.

Since the 1986-88 liability waiver attempt, there is the dimension of water contamination. Farmers are worried that they will have to pay for cost of clean up of water supplies if the pesticides and fertilizers found in water supplies can be traced to their farming activities. Attachment C is a copy of an issue paper on liability in groundwater quality protection, part of a series of 17 papers developed by the Groundwater Policy Education Project, Freshwater Foundation, Spring Hill Center, 725 County Road 6, Wayzata, MN 55391, telephone: 612-449-0092) It is attached to inform the subcommittee members and staff about the recent trends in farmer liability.

Concerns of water supply agencies worried about water quality need to be recognized. The American Water Works Association (AWWA) recently called for more aggressive preventative practices and monitoring to protect water supplies. Other water supplies are increasing charges to consumers to pay for clean up. Attachment D are stories from the *Louisville Courier, St. Louis Post Dispatch*, USGS Public Affairs, release on finding herbicides throughout the Mississippi River and Tributaries, and a report in *Pesticide and Toxic Chemical News* about the AWWA request to EPA regarding preventative strategies.*

A single comprehensive plan could be a real help to farmers dealing with multiple problems. It could help farmers to maximize profit through better management of all farm elements. A single plan could be a valuable instrument for state agencies, EPA and others to use to be assured that all producers are meeting environmental standards.

There must be a way to measure implementation, as there will be those who won't take the producer's word (self-certification), and who will challenge implementation. If the plan is solid, and there are ways to measure implementation, it's entirely possible that liability could be waived for certain kinds of sanctions. The best way I know of that would protect the farmer from challenge is recordkeeping, a normal business practice of any good farmer. Credit agencies and banks require recordkeeping for self-interest. The Economic Research Service reported that had farmers kept better records they could have avoided much of the credit problems of the late 1980's.

* Permission granted to reproduce for this statement.

There is an antecedent to recordkeeping requirements as part of a plan. The Water Quality Incentives Program (WQIP) requires recordkeeping for the previous three years as well as for each year of the WQIP plan. Only with adequate recordkeeping will the farmer be able to demonstrate that s/he is implementing the plan and be able to be immune from challenges about implementation.

Conclusion

The National Audubon Society appreciates this opportunity to comment on the Site-Specific Agricultural Resources Management Act of 1993. It was an informative exercise looking into the implications of your legislation. We look foward to working with you as H.R. 1440 evolves.

(Attachments follow:)

GAO

United States
General Accounting Office
Washington, D.C. 20548

Office of the General Counsel

B-133192

March 14, 1988

The Honorable Patrick J. Leahy
Chairman, Committee on Agriculture,
Nutrition, and Forestry
United States Senate

Dear Mr. Chairman:

In your February 17 letter, jointly signed with Ranking Minority Member Richard Lugar and Senator Christopher S. (Kit) Bond, you asked whether farmers may be liable, under federal environmental statutes, for the lawful use of a pesticide. More specifically, you question whether a farmer may be liable, under any circumstance, for damages or remedial action associated with the proper use of a pesticide product registered under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. § 136 (1982).

We conclude that, under current law, the potential exists for farmers who have properly applied a pesticide to be required to undertake abatement-type actions, and incur the expenses thereof, in an emergency situation.

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Pub. L. No. 96-510, 94 Stat. 2767 (42 U.S.C. §§ 9601-9675). CERCLA created a fund, commonly known as the "Superfund," to enable federal and state agencies to begin immediately cleaning up sites at which hazardous substances have been released. To replenish the fund and to impose the costs of the unsafe disposal of hazardous waste on responsible parties, CERCLA authorized government agencies to recover "response costs," clean-up costs and damages for injuries to natural resources, from these parties. 42 U.S.C. § 9607.

Section 9607 of title 42, United States Code, the section of CERCLA dealing with liability, provides that neither the federal government nor states may recover "under the authority of this section for any response costs or damages resulting from the application of a pesticide product registered under [FIFRA]." 42 U.S.C. § 9607(i) (emphasis added). A similar exclusion for application of registered pesticides is not provided in the part of CERCLA dealing with abatement actions. "[W]hen the President determines that there may be an imminent and substantial endangerment

to the public health or welfare or the environment because of an actual or threatened release of a hazardous substance," the users of the substance or others who may be involved, including farmers, may be required to take actions, at their own expense, to abate the danger. 42 U.S.C. § 9606(a).

In the Superfund Amendments and Reauthorization Act of 1986 (SARA), Pub. L. No. 99-499, 100 Stat. 1628, Congress amended the abatement provision of CERCLA to provide that any person who takes any abatement action required under the section may petition the President for reimbursement from the fund for the reasonable costs of the action, plus interest. 42 U.S.C.A. § 9606(b)(2)(A). If the petition is denied, the petitioner can file suit for reimbursement from the fund. 42 U.S.C. § 9606(b)(2)(B). The statutory standard for permitting recovery, which favors those who can show that they exercised due care with respect to the substance involved, would seem to fit the situation of a farmer who applies an approved pesticide in accordance with label instructions.

In enacting SARA, Congress considered, but did not adopt, a proposal to prevent farmers lawfully using pesticides from being ordered under CERCLA to abate any resulting danger. The House Report explained the abatement authority in general, and this proposal, as follows:

"Under [section 9606], judicial proceedings may be brought to compel responsible parties to perform cleanup actions at a hazardous waste site. The Administrator also may issue administrative orders compelling such actions. Section 106 of the bill amends [42 U.S.C. § 9606 CERCLA] to provide that these enforcement authorities do not apply with respect to any release or threatened release resulting from the normal application of a pesticide product registered under the Federal Insecticide, Fungicide and Rodenticide Act. However, nothing in this provision affects or modifies in any way the obligations or liability of any person under any other provision of state or Federal law for damages, injury or loss resulting from a release of any hazardous substances or for removal or remedial action."

H.R. Rep. No. 99-253(V) at 15, reprinted in 1986 U.S. Code Cong. & Ad. News 3138-39.

As enacted, however, SARA did not exclude pesticide use from the abatement authority. The conference report (H.R. Rep. No. 962, 99th Cong., 2d Sess. 315, reprinted in 1986 U.S.

Code Cong. & Ad. News 3408) explained that, by deleting the House proposal that would have precluded farmers from having to take any abatement action, "the conferees do not intend to imply that the [section 9606] authority may or may not be used to require those who apply registered pesticides to undertake cleanup." This action in effect leaves open the possibility that, under the abatement authority of CERCLA, a farmer may be required to take response actions at his own expense, although, as discussed above, he may later be able to recover response costs through the petition process.

Farmers may also be liable for abatement-type actions associated with lawful pesticide use in emergency circumstances under section 1431 of the Safe Drinking Water Act, Pub. L. No. 93-523, 88 Stat. 1660 (1974), 42 U.S.C. § 300i. This provision authorizes the Administrator of the Environmental Protection Agency (EPA) to require abatement-type actions in emergency situations which jeopardize the health of persons. The basis of a section 1431 action is the present existence of an imminent hazard, and in that situation, the Administrator of EPA may seek appropriate relief from any person "whose action or inaction requires prompt regulation to protect public health." H.R. Rep. No. 1185, 93d Cong., 2d Sess., reprinted in 1974 U.S. Code Cong. & Ad. News 6554, 6487. See United States v. Price, 523 F.Supp. 1055, 1074-75 (D. N.J. 1981). Under this provision of the Safe Drinking Water Act, farmers may be required to initiate abatement-type actions in emergency circumstances. Unlike CERCLA, the Safe Drinking Water Act does not contain any provision which authorizes the refunding of costs through a petition process.

A similar emergency provision appears in section 7003 of the Resource Conservation and Recovery Act of 1976, Pub. L. No. 94-580, 90 Stat. 2795 (1976), 42 U.S.C. § 6973. EPA also has broad abatement-type authority under the Clean Water Act, 33 U.S.C. § 1321.

You also asked us to examine three proposals to amend FIFRA in order to protect farmers from liability under federal environmental statutes. Two proposals were considered by the House of Representatives on September 19, 1986 (132 Cong. Rec. H7258), and October 16, 1986 (132 Cong. Rec. H11172). The third, S. 2035, 100th Congress, introduced on February 4, 1988, includes a similar provision.

As the previous discussion indicates, the environmental statutes distinguish between EPA's authority to impose financial liability (i.e., response costs or damages) on farmers and EPA's authority to require abatement-type remedial action in emergency circumstances. There is some uncertainty as to whether farmers would be protected,

under any of the proposals as currently drafted, from both financial liability and the obligation to undertake abatement-type actions. In this regard, none of the proposals refers to "abatement" actions; rather, they are couched in terms of liability for "the costs of response" (the House proposals), and liability "arising from a release or threatened release of a pesticide into the environment" (the Senate proposal). While we recognize that explanatory legislative history could further clarify Congress' intent, the language of all three proposals, standing alone, is subject to interpretations which would give farmers less than absolute insulation from the consequences of pesticide application under federal environmental laws.

Moreover, if any of the proposals were enacted and farmers were required to undertake abatement action, it is not clear how farmers would recover their costs incurred in complying with the abatement authorities under federal environmental statutes, with the exception of abatement actions under CERCLA. On this point, only CERCLA provides a means by which costs could be recovered.

Sincerely yours,


James F. Hinchman
General Counsel



Congressional Research Service
The Library of Congress

Washington, D.C. 20540

March 14, 1988

TO : Senate Committee on Agriculture, Nutrition, and Forestry
FROM : American Law Division
SUBJECT : Liability of Agricultural Producers for Pesticide Use: Exemptions in S. 2035 and Other Bills to Amend FIFRA

This responds to the Committee's request for analysis of the extent to which farmers may be subjected to liability under current federal environmental laws for the consequences of pesticide application, and for analysis of the effectiveness of language, designed to exempt farmers from such liability, contained in proposed FIFRA amendments in S. 2035, § 825 (100th Congress) and in two House-passed versions of H.R. 2482, 99th Congress. Proposed S. 1516, an alternative to S. 2035, contains no such exemption.

The first House version of the exemption (see 132 Cong. Rec. H7259 (daily ed., Sep. 19, 1986)), read as follows:

Liability under Federal environmental statutes for the costs of response or damage incurred with respect to a release or threatened release into the environment of a pesticide shall, in any case where the application was in compliance with label instructions and other applicable law, be imposed on the registrant or other responsible parties, not the agricultural producer, unless the producer has acted negligently, recklessly, or with the intent to misuse such pesticide. There shall be a rebuttable presumption that the application was in compliance with label instructions and otherwise lawful. ...

The later-passed version of H.R. 2482 (see 132 Cong. Rec. H11193, (daily ed., Oct. 16, 1986)) was changed to read:

- (1) GENERAL RULE. -- Liability under Federal environmental statutes for --
 - (A) the costs of response to a release of a pesticide into the environment, or

(B) damages incurred with respect to a release or - threatened release into the environment of a pesticide, shall not be imposed on the agricultural producer involved in the release if, as shown by the agricultural producer, the application was in compliance with label instructions and applicable law unless the agricultural producer acted negligently, recklessly, or with the intent to misuse such pesticide but shall, to the extent provided under such statutes, be imposed on any other responsible parties. ...

Proposed section 825 of S. 2035 provides:

(1) GENERAL RULE. -- Liability under Federal environmental laws arising from --
(A) a release or threatened release of a pesticide into the environment, or
(B) damages incurred with respect to a release or threatened release into the environment of a pesticide, shall not be imposed on the agricultural producer involved in the release if, as shown by the agricultural producer, the application was in compliance with label instructions and applicable law unless the agricultural producer acted negligently, recklessly, or with the intent to misuse such pesticide but shall, to the extent provided under such statutes, be imposed on any other responsible parties. ...

Each of the three bill versions would exempt farmers ("agricultural producers," a term that would include farmers) from "liability under federal environmental laws" (or "statutes"). Each version also defines "federal environmental laws" similarly to include the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA," or "Superfund Act"); the Federal Water Pollution Control Act (Clean Water Act, or "CWA"); the Solid Waste Disposal Act (or, alternatively, the Resource Conservation and Recovery Act, "RCRA"); title XIV of the Public Health Service Act (the Safe Drinking Water Act, "SDWA"); and the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"). However, both House-passed versions would narrow the exemption to liability "for the costs of response" or for "damages" resulting from a release of a pesticide into the environment.

(The complete report is held in the committee files.)

GROUNDWATER & PUBLIC POLICY 11

SERIES

COOPERATIVE EXTENSION • SOIL AND WATER CONSERVATION SOCIETY • FRESHWATER FOUNDATION

LIABILITY ISSUES IN GROUNDWATER QUALITY PROTECTION

While agricultural activities may contaminate groundwater, other sources of contamination have historically been the focus of most regulation and litigation concerning groundwater. Recently, however, attention has begun to shift to agriculture. While incidents in which agricultural activities resulted in liability are not yet common, these incidents can be expected to increase as agriculture becomes more regulated and people become more aware of groundwater issues.

by
Theodore A.
Feltthams
North Carolina State
University

THE CONCEPT OF LIABILITY

Persons responsible for groundwater contamination may be held liable—and responsible persons frequently are a much larger group than just those whose agricultural activities directly caused the contamination. Anyone providing goods or services to those engaged in agriculture is potentially liable, even someone who unknowingly purchases contaminated land. Furthermore, even creating the potential for groundwater contamination may result in liability, even if actual contamination does not occur.

WHO CAN IMPOSE LIABILITY?

Liability may be imposed through the action of a private party or a federal or state agency.

- Private parties may impose liability through civil lawsuits brought in either federal or state court.
- Federal and state agencies may impose liability through administrative actions, civil lawsuits or criminal prosecutions.

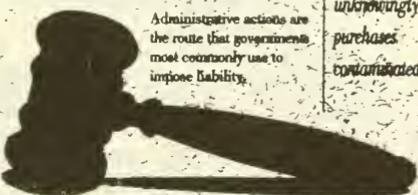
WHAT ARE THE CONSEQUENCES OF LIABILITY?

Liability takes many forms. Private lawsuits usually ask for money damages, an injunction (a court order that requires some modification of the defendant's behavior), or both. Courts have broad injunctive powers to prohibit planned or present activities and to require remedial action.

Federal and state agencies generally may seek all remedies available to private parties and, in addition, they can seek civil or criminal penalties. They may also take administrative (nonjudicial) action. Such actions give agencies broad latitude to impose civil monetary penalties and to require changes in the activities of those regulated.

Administrative actions are the route that governments most commonly use to impose liability.

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potentially liable,
even someone who
unknowingly
purchases
contaminated land.*



Such actions range from informal warnings for minor, first-time violations to formal administrative proceedings that resemble court actions.

WHO IS RESPONSIBLE FOR ENFORCEMENT?

... farmers who engage in unauthorized or uncertified application or resale of restricted pesticides may face civil or criminal sanctions.

Enforcement of groundwater quality protection laws continues to be primarily a state and local responsibility. Nonetheless, federal regulation of groundwater has become increasingly important over the past two decades. As a result, interactions, overlaps and even conflicts between federal and state regulation of groundwater have become increasingly important.

As a matter of policy, federal environmental legislation generally has favored a major state role. The U.S. Environmental Protection Agency (EPA) promotes this policy by delegating many responsibilities to states. Congress also has assigned some responsibilities directly to the states.

FEDERAL LAW

Among the many federal statutes that regulate groundwater, there are five major ones that relate to the determination of liability.

1. The Federal Insecticide, Fungicide and Rodenticide Act

Pesticides have been regulated under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) since 1947. As a licensing statute, with primary focus on manufacturing and distribution of pesticides, FIFRA is not a source of liability. However, farmers who engage in unauthorized or uncertified application or resale of restricted pesticides may face civil or criminal sanctions. FIFRA is of paramount importance because the list of substances defined as pesticides under FIFRA is used as the definition for pesticides in almost all federal and state groundwater protection law.

2. The Safe Drinking Water Act

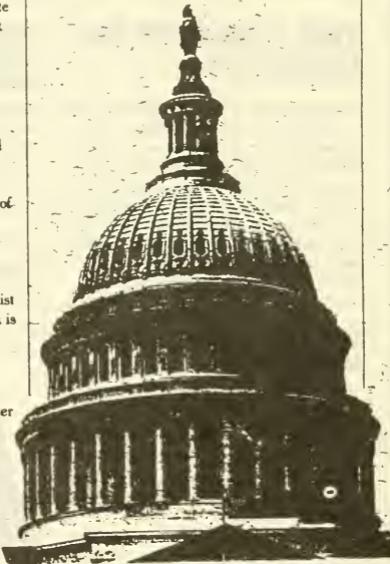
The Safe Drinking Water Act protects public water systems by regulating "maximum contaminant levels." The act requires EPA to establish maximum contaminant levels (MCLs) that serve as minimum standards for the nation's drinking water. MCLs are important for assessing liability for groundwater contamination because they provide an objective standard for measuring the amount of damage sustained.

States are also required to develop wellhead protection programs designed to protect groundwater supplying public water systems. Agricultural activities within wellhead protection zones are likely to be affected by wellhead protection programs. The extent to which this will occur is difficult to determine because these programs are relatively new.

3. Comprehensive Environmental Response, Compensation and Liability Act

Congress passed the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) to promote "cleanup" of inactive-hazardous waste disposal sites. CERCLA gives EPA authority to compel responsible parties to clean up hazardous waste sites. EPA also has authority to conduct the cleanup itself and recover cleanup costs from responsible parties. Parties who have failed to comply with earlier EPA cleanup orders may be forced to pay three times EPA's actual cleanup costs.

The CERCLA definition of responsible parties is





broad. It includes not only those who produced and handled hazardous waste but also subsequent landowners who may not even be aware that their land is contaminated. Subsequent landowners may be exempted from liability only if they took adequate steps, such as an environmental assessment, to detect hazardous waste on the land prior to purchase. The CERCLA definition of responsible parties includes individuals, such as farmers and landowners; private organizations, such as banks; units of state and local government; and even other units of federal government.

The application, handling and storage of pesticides registered under FIFRA are exempted from CERCLA coverage. Nonetheless, CERCLA cleanup liability may exist where unused portions of pesticides have been discarded improperly.

4. The Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act of 1976 (RCRA) regulates hazardous waste from its generation to disposal. RCRA requires most generators and handlers of hazardous waste to obtain permits. EPA also has authority to regulate "releases" from activities not requiring RCRA permits.

RCRA provides no exception for agricultural pesticide use. EPA has provided a limited exception, by regulation, for disposal of empty containers that held FIFRA-registered pesticides. Such containers must be triple rinsed and disposed of on the farmer's own land in a manner consistent with the pesticide

label. Otherwise the exception does not apply. State law may further restrict farmers' disposal options.

5. Regulation of Underground Storage Tanks

RCRA also authorizes EPA regulation of underground storage tanks. RCRA requires prevention, detection and correction of leaking underground storage tanks. RCRA also set up registration requirements and mandated minimum levels of financial responsibility.

Farmers who have underground fuel tanks with capacities of 1100 gallons or less are exempt from RCRA registration and financial responsibility requirements. The exemption, however, does not relieve farmers from cleanup liability. A farmer may be forced to pay for cleanup of soil and groundwater contaminated by a leaking tank. So long as the tank is on property owned by the farmer, these costs may be imposed without regard to whether the farmer caused the leak. Even an abandoned leaking tank, unknown to the farmer who currently owns the land, may be a source of liability.

CITIZEN SUITS AND CRIMINAL PROSECUTION

Citizen suit provisions of federal environmental statutes provide opportunities for private parties to bring lawsuits against polluters. The creation of such provisions has been based on the policy judgement of Congress that private parties should have the right to require enforcement of environmental laws where regulatory agencies have failed to provide it. Citizen suit provisions generally allow both monetary awards and injunctive relief. SDWA, CERCLA and RCRA all contain citizen suit provisions.

RCRA and CERCLA also contain criminal provisions that may apply to cases of groundwater contamination. To obtain a conviction the government needs only to show that prohibited acts were committed knowingly, or at least that they were not committed by mistake or through inadvertence.

Citizen suit provisions of federal environmental statutes provide opportunities for private parties to bring lawsuits against polluters.

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THE EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT

The Emergency Planning and Community Right-To-Know Act of 1986 was enacted so that communities might be informed of toxic chemicals being stored, used and released in their communities, thus allowing community emergency response personnel to respond properly to emergencies involving toxic chemical releases.

Businesses or others who store or use hazardous chemicals must provide a material safety data sheet on each such chemical to both the local emergency planning committee and the fire-department with jurisdiction over the area in which the facility is located, as well as to the state emergency response committee. Releases of any hazardous chemicals must be reported according to procedures established by regulation. The regulations provide for numerous exceptions to the Act's reporting requirements, including a limited exemption for agriculture. EPA has published guidance specifically for farmers.

SUMMARY OF FEDERAL LAW

Federal law creating liability for groundwater contamination is not unified and therefore is often ambiguous and confusing. This confusion is compounded by the fact that EPA has yet to issue all the regulations required to implement existing legislation. In many instances, statutory deadlines for formulation of groundwater standards for specific substances have been missed. EPA proposed a comprehensive strategy regarding agricultural chemicals in groundwater in February 1988; however, it has not yet proposed regulations to implement such a strategy. Nonetheless, the federal government has brought suit against owners of hazardous waste sites, and litigation may resolve many of the issues that various federal statutes and regulations have left unclear.



STATE LAW

Liability for groundwater contamination may arise under state law from two sources: common law or state statutes. State statutes may be enacted independently or as a result of federal mandate or delegation. Common law, the oldest source of liability, continues to be important. Common law is judge-made or case law, received by the states from England, that has evolved over time in each state as additional cases have been decided.

Many state statutes affecting groundwater have been enacted as a result of either federal mandate or delegation. Some states choose to regulate only at the minimum level required by federal mandate or delegation, while others go far beyond the minimum. In addition, some states have enacted groundwater statutes that are unrelated to federal mandates or delegation. Some of these statutes extend liability, while others limit it. Law creating liability for groundwater contamination often is even more confused at the state level than at the federal level.

THE COMMON LAW OF TORT

Liability for groundwater contamination may arise under states' common law of tort (a civil wrong) under a variety of theories, including intent, negligence and strict liability. Liability also may be based on nuisance or products liability.

INTENT

An intentional tort is defined as an act, intended by the defendant, that was the legal cause of an injury to either the person, property or reputation of the plaintiff. The plaintiff need not prove actual damages; punitive or exemplary damages may be awarded.

Trespass is an intentional tort under which liability for groundwater contamination may arise. An essential element of trespass is that the property of the plaintiff must have been invaded physically as a result of some intentional act by the defendant, such as the defendant disposing of toxic chemicals on or her own land knowing that it would contaminate plaintiff's groundwater. Since a plaintiff can sue in trespass and recover punitive damages without showing actual damages, a defendant who contaminated another's groundwater may be forced to pay monetary damages even though the contamination caused no damages to the plaintiff.

the federal government has brought suit against owners of hazardous waste sites, and litigation may resolve many of the issues that various federal statutes and regulations have left unclear.

Law creating liability for groundwater contamination often is even more confused at the state level than at the federal level.

NEGLIGENCE



Negligence is probably the common law theory under which liability for groundwater contamination is most likely to arise. To establish a case in negligence, a plaintiff must show the following:

- that the defendant had some duty (a legal obligation) to the plaintiff;
- that the defendant breached that duty;
- that there is a reasonably close causal connection between the breach and the resulting injury;
- that there were actual damages. Punitive damages generally may not be recovered under a negligence theory.

Among the most difficult aspects of establishing the tort of negligence is proving causation.

Even if it can be proven that groundwater was contaminated as a result of a defendant's negligent acts, it may not be possible to demon-

strate that the contamination caused the alleged damages.

STRICT LIABILITY

Strict liability (liability without fault) may be shown by establishing the following:

- that the defendant had an absolute duty to make his or her activity safe;
- that the defendant breached that duty;
- that there was a reasonable causal connection between the breach and the injury;
- that the plaintiff suffered actual damage.

A strict liability theory may be used when the defendant's activities were ultra-hazardous. Imposition of strict liability represents a policy judge-made by society that an activity, while having sufficient value that it should not be completely prohibited, is so hazardous that the one engaging in it should bear the entire risk of loss. Examples of ultrahazardous activities include blasting, keeping dangerous animals and, under certain conditions, the use of herbicides in agriculture.

NUISANCES

Nuisances are categorized into public and private nuisances. Public nuisances are generally civil or criminal offenses prosecuted by the state to prevent damage to the health, welfare or morals of the general population. Some cases of groundwater contamination may be prosecutable as public nuisances. A private nuisance action may be brought under the theories of negligence, intent or strict liability. All private nuisances involve an unreasonable interference with the plaintiff's land. Unlike trespass, nuisance requires no physical invasion of the plaintiff's property.

PRODUCTS LIABILITY

Products liability is unlikely to be a source of liability for the individual farmer. It may, however, be a source of liability for manufacturers and suppliers of pesticides found in contaminated groundwater. Depending on the state, as many as five theories may be available to the plaintiff attempting to bring a products liability suit.

Along with intent, negligence and strict liability, the fourth basis for establishing products liability is breach of implied warranties of merchantability and fitness. A suit based upon such a theory might allege that it is implied in warranties made upon sale of a pesticide that such a product would not contaminate groundwater if used according to label directions.

The fifth basis for establishing products liability is breach of express warranties and misrepresentation. A suit based upon such a theory could arise when a seller of a pesticide expressly stated that use of the product would not result in groundwater contamination.

STATE LEGISLATION

States have modified common law dramatically through legislation. Although much legislation has been in response to federal mandate or delegation, many states have enacted liability legislation that is far more comprehensive than any regulation mandated or delegated by the federal government.

The U.S. General Accounting Office studied groundwater protection legislation in the 50 states, the District of Columbia, and six commonwealths and territories. According to its 1988 report, no state lacked legislation to protect groundwater, and 15 states had specific groundwater protection legislation. Many states have adopted groundwater standards: 26 states use numeric standards that set maximum contaminant levels for specific contami-

means, 35 states use corrective standards; 23 states use both, and 12 states use none. Many states, but no two, measure whether their groundwater standards on EPA's National List of Contaminants and Corrective Action Standards.

Some states have enacted legislation that expands liability for contamination of groundwater well beyond the state's normal common law. Other states have enacted legislation designed to limit liability for agricultural producers who contaminated groundwater with pesticides.

Many states have enacted right-to-farm legislation that limits the ability of plaintiffs to win nuisance suits by specifying farmers' defenses with an affirmative defense. Such right-to-farm legislation generally requires that the defendant's farm predate the cause of action's activities that have been disrupted, that the farm has been operated according to good farming practice, and that the operation of the farm was neither negligent nor in violation of water polluting laws. (Otherwise the farm is denied the protection of the statute.)

SUMMARY OF STATE LAW

Liability for groundwater contamination may arise under a state's common law, statutes or both. All states have enacted legislation regulating groundwater. While the general trend in state legislation has been to expand liability, some legislatures have recognized that this may impose undue hardships upon agricultural producers. Therefore, some states have limited the liability of agricultural producers either directly, through exemption legislation, or indirectly, through right-to-farm laws. Conformity with good management practices is almost always a prerequisite to qualifying for such limited liability.

CONCLUSION

Over the past two decades, both federal and state governments have enacted much legislation affecting liability for contamination of groundwater. However, neither the states nor the federal government has developed fully comprehensive and integrated approaches to groundwater protection.

Merely complying with all existing laws and regulations is no longer enough. Future legislation may require cleanup liability for contamination resulting from activities that were entirely legal at the time those activities occurred. Careful evaluation of all activities, both past and present, and right to farm legislation will be necessary to avoid liability.

Use of such audits, along with appropriate followup and corrective action, can greatly reduce the potential for civil liability and virtually eliminate all potential for criminal liability.

Given the confusion and complexity in the law, it is difficult for agricultural producers to predict whether they will be found liable for acts that contaminate groundwater. Therefore, minimizing the likelihood that groundwater contamination will occur is the best strategy for avoiding liability.

The wedged version of the paper on which this leaflet is based appears in the March/April 1988 issue (Volume 45, Number 2) of the *Journal of Soil and Water Conservation*.

Dr. Feitshans is now an attorney at law residing in Rivendale, New York.

This leaflet is not intended to constitute the provision of legal advice or to provide a comprehensive statement of law. Those who believe that they have a legal problem are urged to consult their own attorneys.

RECOMMENDED FURTHER READING:

"Superfund (SARA) and Farmers: How the Emergency Planning and Community Right-to-Know Act Affects Agriculture and Farmers." 1988. U.S. Environmental Protection Agency.

Groundwater Quality: State Activities To Guard Against Contaminants. 1988. U.S. General Accounting Office, Washington D.C.

Superfund: Interim Assessment of EPA's Enforcement Program. 1988. U.S. General Accounting Office, Washington, D.C.

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Merely complying with all existing laws and regulations is no longer enough.

Future legislation may impose cleanup liability for contamination resulting from activities that were entirely legal at the time they occurred.



FRIDAY, SEPTEMBER 27, 1991

Herbicide Is Found In River

Water Companies Push Restrictions On Use Of Atrazine

By Tom Uhlenbrock
of the Post-Dispatch Staff

The findings prompted water companies along the route to press the Federal Environmental Protection Agency on Thursday for an immediate curb on the chemical.

The samples were taken at seven sites along the river from St. Louis, Mo., to St. Louis, said Terry Gloriod, director of the St. Louis County Water Co.

Samples were taken from May through July, and in 15 percent of those samples, he found atrazine, Gloriod said.

Nearly one-third of the samples had amounts of atrazine that exceeded three parts per billion parts of water, the level that the EPA has listed as acceptable for drinking water, Gloriod said.

He said sites further downriver toward St. Louis were "more likely" to have atrazine to them and at higher levels.

But while the water companies want use of atrazine restricted, the EPA revives its overall use,

ST. LOUIS POST-DISPATCH

Tests

From page one

able about having water that has a trace level of pesticide, that's an issue that this company will have a difficult trying to address," said Dennis Terney of Ciba-Geigy Corp.

The EPA says atrazine, a herbicide used to kill weeds in corn and soybean fields, causes cancerous tumors in laboratory rats and is suspected of being a carcinogen.¹⁰

St. Louis County Water and the St. Louis City Water Division are among the 16 members of the Missouri River Public Water Supplies Association, which did the sampling.

Because of the results, the association asked EPA Administrator William K. Reilly to "take immediate action" to reduce pesticide contamination of surface waters humans.

"Pesticides are entering the environment at a time which the administration is urging environmental stewardship," the association said. "EPA's environmental stewardship must include review and responsible regulation of agricultural pesticide use."

"Herbicides often are referred to as pesticides by people in government and industry,"

In the Post-Dispatch reported that atrazine was showing up in private wells throughout Missouri. The U.S. Geological Survey said that 92 wells tested in February had bad concentrations of atrazine.

Water companies have the technology to remove atrazine from water to meet federal drinking water standards,

but Gloriod said it would be "very, very expensive."

"We had an engineering analysis performed in 1981 by look at the probable cost, and the capital cost was over \$100 million," he said. "Operating and maintenance was around \$5 million a year."

"What that means per household, in terms of 1989 costs, would be an additional \$50 in \$30 per year to cover those costs."

What the association wants, Gloriod said, is further restrictions on how, when and in what amounts atrazine can be applied to fields.

The EPA says 10 to 90 million pounds of atrazine are used annually on crops in the United States.

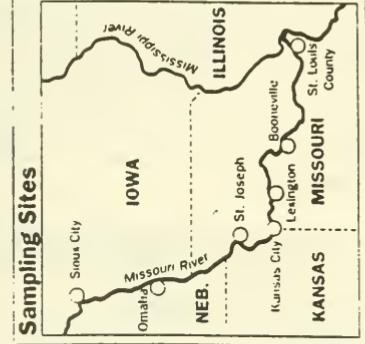
Atrazine is manufactured by Ciba-Geigy, E.I. du Pont de Nemours & Co., Inc., Drexel Chemical Co. and two Italian chemical firms. It is sold in eight herbicides now in the market.

Terney, a researcher for Ciba-Geigy, pointed out that the figures compiled by the association "show 'peak' pesticide use," which atrazine would be expected to be found in the river due to runoff after spring rains.

"Those peaks would diminish as where it would be non-detectable later in the year," he said. "Since utilities have to provide water with atrazine levels based on an annual average, they would be in compliance with the Safe Water Drinking Act."

He said also that the three parts per billion standard, "means you can drink two quarts of water with that level, and for 10 years, all your life, and have no adverse effects."

Cathy Geigy, Toxics manager, this year changed its label calling for the recommended maximum application of



Post Dispatch Map

attribution to three pounds from four pounds on each acre because of concern over chemical contamination of ground water.

"But we have to be very honest and recognize that as long as you use soil based pesticides, there will be traces of these compounds in drinking water," he said.

"If people in society feel uncomfortable with trace amounts of herbicides in drinking water."



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For release: November 20, 1991

SPRING SAMPLING FINDS HERBICIDES THROUGHOUT
MISSISSIPPI RIVER AND TRIBUTARIES

Herbicides were detected in the Mississippi River and several major tributaries throughout April, May and June of this year, according to a report released today by the U.S. Geological Survey, Department of the Interior.

USGS scientists reported that the herbicide atrazine was detected in each of 146 water samples collected at eight locations on the Mississippi, Ohio and Missouri rivers and on three smaller tributaries, the Illinois, Platte and White rivers. More than three-fourths of these samples also contained the herbicides alachlor, cyanazine and metolachlor.

The results of the study are being shared with a number of state and federal agencies, including the U.S. Department of Agriculture and the U.S. Environmental Protection Agency, under President Bush's water-quality initiative to reduce the impacts of agriculture chemicals on the nation's water resources.

"One of the significant findings of the study is that atrazine concentrations were found to exceed EPA's maximum contaminant level (mcl) continuously for several weeks in rivers as large as the Missouri and Mississippi. These rivers drain areas of more than half a million square miles," said Don Goolsby, USGS hydrologist, Denver, Colo., and senior author of the report.

These results are consistent with other recent studies by USGS on smaller rivers in the Midwest that indicate a sharp increase in concentrations of the herbicides following their application to croplands in April and May. The increases are caused by late spring and summer rainfalls that flush some of the herbicides into the streams. Studies conducted by the USGS on 150 streams in 1989 and 1990 found herbicide levels decreased to levels below the mcl during the fall.

Samples and results in this study are for untreated river water whereas mcl's apply to water supplied to the user after treatment.

(more)

The present USGS study began in April 1991 and will continue until April 1992. The major objectives are to determine the time distribution and annual mass transport of herbicides in the Mississippi River and its major tributaries. Data for the study are being collected at the following locations:

- o Illinois River at Valley City, Ill.
- o Platte River at Louisville, Nebr.
- o White River at Hazelton, Ind.
- o Missouri River at Hermann, Mo.
- o Ohio River at Grand Chain, Ill.
- o Mississippi River at Clinton, Iowa
- o Mississippi River at Thebes, Ill.
- o Mississippi River at Baton Rouge, La.

Results from the first three months of the study have been published in U.S. Geological Survey Water Resources Investigation Report 91-4163, titled "Distribution of Selected Herbicides and Nitrate in the Mississippi River and Its Major Tributaries, April through June, 1991," by D.A. Goolsby, R.C. Coupe, and D.J. Markovich. Copies of the report are available from the U.S. Geological Survey, Books and Open-File Services Section, Federal Center, Bldg. 810, Box 25425, Denver, Colo., 80225-0425, telephone 303-236-7476.

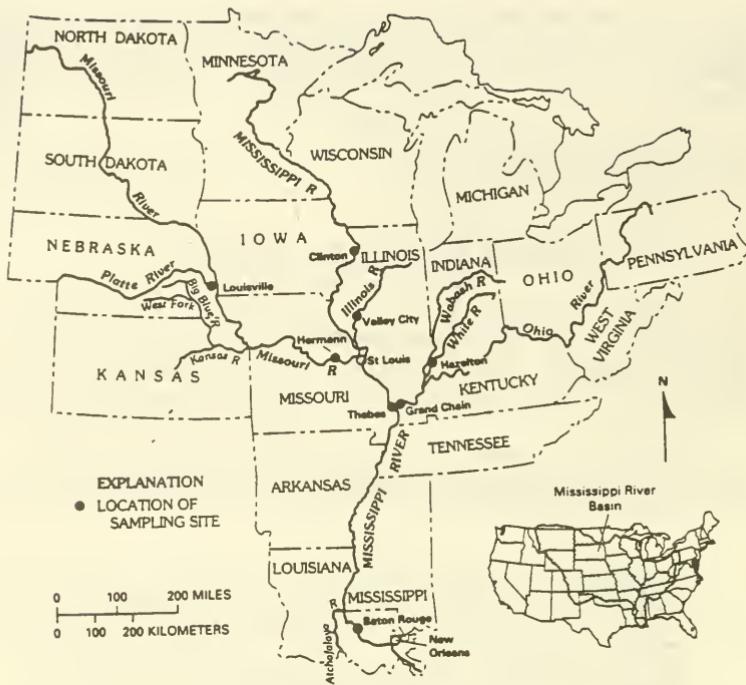
As the nation's largest water-resources information agency, the USGS collects data on surface-water and ground-water quantity and quality at more than 50,000 locations nationwide in cooperation with more than 1,000 state, local and federal agencies.

* * * USGS * * *

(Note to Editors: Specific information on the atrazine levels from each state are available from the appropriate USGS Water Resources Division District Chief listed below. Questions about the overall herbicide sampling program can be directed to Donald Goolsby, USGS, Denver, Colo., telephone 303-236-5925. Related questions can be directed to Sean McElheny, water issues, or Al Heier, pesticides, EPA, telephone 202-260-4355; or Larry Adams, USDA, telephone 202-720-4751.

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Kentucky	A.L. Knight	502-582-5241	Louisville, Ky.
Tennessee	F. Quinones	615-736-5424	Nashville, Tenn.)

(See attached map)



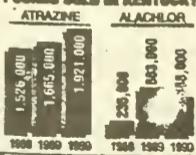
At least one herbicide was detected in each of 146 water samples collected at 8 sites in the Mississippi River basin during April-June 1991, according to the U.S. Geological Survey, Department of the Interior. The herbicide atrazine was detected in every sample and exceeded maximum contaminant levels for drinking water in 27 percent of the samples. The samples were collected during the expected peak concentration season for the farm chemicals.

FROM FIELD TO FAUCET

Atrazine and alachlor are chemical weed-killers that are used on many crops such as corn, soybeans and sorghum. Atrazine is the most-used pesticide in Kentucky, with nearly 2 million pounds sold in 1980.



POUNDS SOLD IN KENTUCKY



Concern rising over herbicides in water supply

By ANDREW MELNYKOWITCH, Staff Writer 1-29-83

Two common agricultural weed-killers that are suspected of causing cancer are turning up in the Ohio River and in Louisville's drinking water.

While levels of alachlor and atrazine in Louisville's water have not exceeded federal safety standards, environmentalists worry that the contaminants could become a significant health hazard. The chemicals also are being detected in ground water in Kentucky, though less often than in the Ohio River.

The Louisville Water Co. is routinely testing for the chemicals and can remove them if they reach unhealthy levels, company officials said.

"We don't see it as a major threat," said Steve Hubbs, the company's vice president for water quality and production.

But Jack Wilson, director of the Kentucky Division of Water Quality, said, "I think the threat is there, and it may be significant, but we don't have a large enough database to make a good judgment on it."

See WATER
Page 7, col. 1, this section

WATER

Continued from Page One

Maureen Hinkin, director of agricultural policy for the National Audubon Society, said the problem is that increasing amounts of the herbicides are turning up in drinking-water supplies. The solution, he said, is simple: Farmers are "just going to have to use less" of the chemicals.

Farmers in Kentucky are concerned about polluting surface and ground water with the chemicals they apply, in part because they fear that reports of contamination will spur further restrictions on pesticide use, said Bill Witt, professor of weed science at the University of Kentucky and an expert on the two herbicides.

"Farmers are concerned about polluting surface and ground water with the chemicals they apply, in part because they fear that reports of contamination will spur further restrictions on pesticide use," said Bill Witt, professor of weed science at the University of Kentucky and an expert on the two herbicides.

"I haven't met a farmer yet who wanted to drink water that was contaminated by something they are using," he added.

Atrazine and alachlor are among the most widely used agricultural herbicides in the United States, with about 90 million pounds of each applied annually, mostly to cornfields.

Atrazine, the most heavily used agricultural herbicide in Kentucky, also is used to kill weeds in sorghum, while alachlor is used on soybean fields.

The U.S. Environmental Protection Agency classifies both alachlor and atrazine as possible human carcinogens. The maximum amounts permitted in drinking water are one part per billion of alachlor and three parts per billion of atrazine. A part per billion is the equivalent of one penny in \$10 million.

The weedkillers are applied in the spring, usually before or just after planting, Witt said. Ninety percent of cornfields in Kentucky are treated with atrazine, he said.

When it rains, some of the chemicals are washed into ponds or streams, while some trickle into ground water. The weedkillers eventually make their way into major rivers like the Ohio.

Test results compiled by the Ohio River Valley Water Sanitation Commission show that atrazine and alachlor are commonly found in the river and some of its tributaries. Louisville, 41 of 57 water samples taken from the river at the main Louisville Water Co. intake near Crescent Hill showed detectable levels of atrazine. Alachlor turned up in 19 of the 57 samples, which were taken from January 1980 to July 1982, mostly in the spring when contamination is most likely, Hubbs said.

These chemicals were found less often in treated water. Atrazine was found in 40 of 70 samples taken between January 1987 and July 1982, while alachlor was found in 14 of 64 samples. Average levels of the chemicals in both untreated and treated water were well below the maximum allowable amount set by the federal government, with atrazine much lower than alachlor.

Hubbs said the Louisville Water Co. is not taking steps to remove the chemicals because the danger they pose is so small. If atrazine and alachlor increase to dangerous levels, they could be removed using powdered charcoal, he said. Company officials said it could cost about \$138,000 — 63 cents per year per customer — to use the charcoal process during the three months that herbicide levels are at their highest.

A recent study of ground water contamination conducted by the state and the Kentucky Farm Bureau found atrazine in 374 of 1,826

wells or stock ponds tested, and alachlor in 28 of 364 wells. Only

"a few" wells had atrazin, "at levels near the federal standard," while alachlor approached the standard in a few wells.

Atrazine and alachlor contamination is far worse in some other states. The Ohio River contains relatively little of the corn belt, and the herbicides are greatly diluted by the river, Witt said. Federal studies have found much higher levels of chemicals in the Missouri and Mississippi rivers.

High levels of atrazine and alachlor have been detected in the White River in Indiana, which drains farmland in the state's southwest corner. Atrazine was found in all 50 samples taken at Hazelton in 1981, which is three times the federal standard for drinking water. Alachlor was found in 20 of 50 samples. Restrictions on atrazine and alachlor are not under consideration in Kentucky, said Ronald Eggers, chief of the state Division of Pesticides. Witt said that the major producer of atrazine has changed its use instructions to indicate that the product should not be applied in areas where it is likely to run off to streams and ponds.

A ban on atrazine and alachlor could be devastating to farmers, he said. Without the weedkillers, corn yields could be cut by half or more, and soybean chemicals would be much more expensive, he said.

A Jefferson County environmentalist said the presence of herbicides in the Ohio demonstrates that water pollution is not simply a local issue.

"This is an excellent example of how land use affects water quality, and the health of people who are not responsible for that land use," said Memie Ruyco, director of River Fields, an Ohio River watchdog group.

—

EE5UM, WK3

61

TABLE A5

STATION: EVANSTVILLE WTP
 OHIO RIVER: MILE POINT 791.5
 DATA COLLECTED BY: EVANSTVILLE & IDEM

OHIO RIVER WATER
 PERIOD OF RECORD: 4/87 - 5/92

PESTICIDE	NO. OF SAMPLES	NO. OF DETECTIONS	SAMPLE MEAN (ug/L) IF BDL = 0	SAMPLE MEAN (ug/L) IF BDL = DL	MAXIMUM DETECTION (ug/L)
ALACHLOR	6	1	0.08	-	0.3
ATRAZINE	10	1	0.20	-	2
CYANAZINE	5	0	-	-	0
METOLACHLOR	5	0	-	-	0
SIMAZINE	5	0	-	-	0
TOTAL	31	3			

* = DETECTION LEVELS NOT AVAILABLE

TREATED DRINKING WATER
 PERIOD OF RECORD: 4/89 - 5/92

PESTICIDE	NO. OF SAMPLES	NO. OF DETECTIONS	SAMPLE MEAN (ug/L) IF BDL = 0	SAMPLE MEAN (ug/L) IF BDL = DL	MAXIMUM DETECTION (ug/L)
ALACHLOR	1	0	-	-	0
ATRAZINE	1	1	-	-	2
CYANAZINE	-	-	-	-	-
METOLACHLOR	-	-	-	-	-
SIMAZINE	-	-	-	-	-
TOTAL	1	1			

BDL = BELOW DETECTION LEVEL

DL = DETECTION LEVEL

TABLE A2

STATION: LOUISVILLE WTP - B.E. PAYNE
 OHIO RIVER: MILE POINT 594.5
 DATA COLLECTED BY: LOUISVILLE

OHIO RIVER WATER
 PERIOD OF RECORD: 7/88 - 7/92

PESTICIDE	NO. OF SAMPLES	NO. OF DETECTIONS	SAMPLE MEAN (ug/L) # BDL = 0	SAMPLE MEAN (ug/L) # BDL = DL	MAXIMUM DETECTION (ug/L)
ALACHLOR	26	4	0.03	0.11	0.3
ATRAZINE	26	16	0.30	0.34	1.61
CYANAZINE	19	5	0.04	0.12	0.3
METOLACHLOR	19	8	0.11	0.16	0.46
SIMAZINE	23	6	0.04	0.13	0.23
TOTALS	113	39			

TREATED DRINKING WATER
 PERIOD OF RECORD: 1/87 - 7/92

PESTICIDE	NO. OF SAMPLES	NO. OF DETECTIONS	SAMPLE MEAN (ug/L) # BDL = 0	SAMPLE MEAN (ug/L) # BDL = DL	MAXIMUM DETECTION (ug/L)
ALACHLOR	57	7	0.04	0.22	0.47
ATRAZINE	59	33	0.39	0.50	2.68
CYANAZINE	18	3	0.04	0.12	0.42
METOLACHLOR	18	5	0.09	0.17	0.33
SIMAZINE	43	5	0.02	0.26	0.4
TOTALS	200	53			

BDL = BELOW DETECTION LEVEL

DL = DETECTION LEVEL

TABLE A3

STATION: LOUISVILLE WTP - CRESENT HILL
 OHIO RIVER: MILE POINT 600.6
 DATA COLLECTED BY: LOUISVILLE

10560

PESTICIDE	NO. OF SAMPLES	NO. OF DETECTIONS	SAMPLE MEAN (ug/L)	SAMPLE MEAN (ug/L)	MAXIMUM DETECTION (ug/L)
			# BDL = 0	# BDL = DL	
ALACHLOR	57	19	0.07	0.15	0.45
ATRAZINE	57	41	0.88	0.72	1.3
CYANAZINE	34	17	0.11	0.17	0.71
METOLACHLOR	35	23	0.24	0.27	0.87
SIMAZINE	46	19	0.09	0.19	0.45
TOTALS	222	119			

OHIO RIVER WATER
 PERIOD OF RECORD: 1/88 - 7/92

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*May Jun
16 5021*

TREATED DRINKING WATER
 PERIOD OF RECORD: 1/87 - 7/92

PESTICIDE	NO. OF SAMPLES	NO. OF DETECTIONS	SAMPLE MEAN (ug/L)	SAMPLE MEAN (ug/L)	MAXIMUM DETECTION (ug/L)
			# BDL = 0	# BDL = DL	
ALACHLOR	68	9	0.04	0.21	0.55
ATRAZINE	70	40	0.35	0.48	2.64
CYANAZINE	18	4	0.05	0.13	0.44
METOLACHLOR	18	6	0.08	0.16	0.78
SIMAZINE	48	5	0.02	0.27	0.3
TOTALS	222	64			

BDL = BELOW DETECTION LEVEL
 DL = DETECTION LEVEL

*22
Data base red as
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line streak 1.0 at high*

GC SUM. WK3

64

TABLE A10

STATION: GRAND CHAIN
 OHIO RIVER: MILE POINT 962.2
 DATA COLLECTED BY: USGS

OHIO RIVER WATER
 PERIOD OF RECORD: 4/91 - 6/92

PESTICIDE	NO. OF SAMPLES	NO. OF DETECTIONS	SAMPLE MEAN (ug/L) IF BDL = 0	SAMPLE MEAN (ug/L) IF BDL = DL	MAXIMUM DETECTION (ug/L)
ALACHLOR	35	10	0.05	0.08	0.33
ATRAZINE	52	47	0.46	0.46	2.1
CYANAZINE	32	9	0.10	0.25	0.7
METOLACHLOR	35	21	0.13	0.15	0.95
SIMAZINE	32	15	0.05	0.08	0.4
TOTALS	186	102			

BDL = BELOW DETECTION LEVEL
 DL = DETECTION LEVEL

HN/AKSUM. WK3

TABLE A14

STATION: HAZELTON, IN
 WHITE RIVER: MILE POINT 19.0
 DATA COLLECTED BY: USGS

WHITE RIVER WATER
 PERIOD OF RECORD: 5/91 - 1/92

PESTICIDE	NO. OF SAMPLES	NO. OF DETECTIONS	SAMPLE MEAN (ug/L) IF BDL = 0	SAMPLE MEAN (ug/L) IF BDL = DL	MAXIMUM DETECTION (ug/L)
ALACHLOR	50	20	0.26	0.29	3.2
ATRAZINE	50	50	1.63	1.63	9.2
CYANAZINE	48	24	0.47	0.56	4.4
METOLACHLOR	50	47	0.53	0.53	3.3
SIMAZINE	48	33	0.14	0.16	0.72
TOTALS	246	174			

November 20, 1991

Page 5
PESTICIDE & TOXIC CHEMICAL NEWS**HERBICIDES IN SURFACE WATER PROMPT CALL FOR ACTION**

Frequent findings of alachlor, atrazine and certain other herbicides above maximum contaminant levels (MCLs) in a high percentage of surface water samples taken in the

Page 6
November 20, 1991

PESTICIDE & TOXIC CHEMICAL NEWS

spring, in a number of studies, have prompted the American Water Works Association (AWWA) to request that EPA implement "more aggressive" best management practices for these herbicides in agriculture and develop a monitoring program for "vulnerable surface water systems" to more accurately reflect the short term exposure from the spring flush (See Nov. 13, Page 2). The AWWA's letter to EPA continued, "The quarterly monitoring for pesticides in the standardized monitoring framework puts surface water systems at risk of a violation without truly reflecting the public exposure." EPA had not answered the letter at press time.

The association said the herbicides "could have a potentially significant impact for surface water systems in areas with intensive agricultural operations." Studies and findings noted by AWWA:

-- Missouri River Public Water Supply Association 1991 study for 90 days at seven locations on the river found atrazine in 75% of all samples, 32% of the samples with residues over the MCL.

-- U.S. Geological Survey (USGS) 1989-1990 study of river basins in ten states: Illinois, Iowa, Indiana, Kansas, Minnesota, Missouri, Nebraska, Ohio, South Dakota and Wisconsin. "Several herbicides were found to exceed their MCLs: 52% of the sites exceeded the MCL for atrazine, 32% for alachlor, and 7% for the proposed MCL for simazine. In the post-planting phase, 23% of the sites exceeded the MCLs for two herbicides, and 10% for three herbicides."

-- Ohio (Lake Erie Basin)-David B. Baker, and R. Peter Richards, Heidelberg College, 1980-1987 study (See Aug. 1, 1990, Page 15; April 24, Page 12, and June 26, Page 34). "Atrazine, metolachlor and alachlor occurrences are most predominant in the region. At one location (Sandusky River at Fremont), atrazine exceeded its MCL 17% of the time between April 1983-Nov. 1987, metolachlor 5% of the time, and alachlor 10% of the time. Between April 15 and Aug. 1985, at the Rocky Creek location, atrazine levels exceeded the MCL roughly 90% of the time and alachlor about 50% of the time, with levels reaching as high as 35 p.p.b."

-- Kansas Department of Health and Environment (KDHE) 1977-1990 study in eastern Kansas. "Sampling of 20% of lakes by KDHE staff from 1977 to 1990 revealed that of 323 samples taken at 208 sites, atrazine was detected in 116 samples at 86 sites. The mean for this period is 3.8 ug/L (greater than the MCL) with concentrations ranging from 1.2 to 11 ug/L. Twenty-four (21%) out of the 116 samples were above the MCL. In samples of Kansas streams, 413 samples at 108 sites had atrazine above 1.2 ug/L detection limit. Concentrations ranged from 1.2 to 26 ug/L with a mean of 3.7 ug/L (greater than the MCL). Forty-three (10%) sites had levels greater than the MCL. As part of another KDHE program, over 100 surface water sources of public drinking water sources were sampled between March and Oct. From 1985-1990, 221 samples were taken and 18 of these contained atrazine. Forty-one percent (41%) of these detections were above the MCL."

-- Illinois EPA, 1985-1989 study. "A total of 500 samples were selected at 30 different locations to insure coverage of the agricultural areas of the state. Atrazine was detected at all sampling stations, at the most frequency (77%) of all the samples and at the highest maximum concentration (39 p.p.b.). Atrazine concentrations above the MCL were detected in 86 (17% of the samples). In addition, alachlor, metolachlor and cyanazine were detected at rates of 46%, 46% and 38%, respectively. An intensive monitoring program was later conducted at two watersheds with daily sampling in May of 1989. Atrazine concentrations above the MCL were detected in 58% of the 40 samples in this study. The mean atrazine concentration of all those samples was 8.2 p.p.b., or 270% higher than the MCL."

November 20, 1991

Page 7
PESTICIDE & TOXIC CHEMICAL NEWS

-- USGS, Cedar River Basin, Ia., 1984-1985 study consisted of monthly samples at six stations. "Atrazine levels consistently exceeded the MCL in June 1984 at four of the stations, with concentrations as high as 18 ug/L. Other pesticides sometimes occurred in elevated quantities such as 21 ug/L for alachlor, 8.7 ug/L for cyanazine and 11.0 ug/L for metolachlor."

CENTER FOR RESOURCE ECONOMICS

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H.R. 1440

"Site Specific Agricultural Resource Management Act of 1993"

Statement of Kenneth A. Cook

Vice President for Policy
Center for Resource Economics¹

Mr. Chairman, distinguished members of the subcommittee: thank you for the opportunity to testify on H.R. 1440, the Site Specific Agricultural Resource Management Act of 1993. We consider this proposed legislation, and these hearings to consider the bill, to be the opening round of debate on the 1995 Farm Bill.

About The Center

I am Kenneth A. Cook, vice president for policy at the Center for Resource Economics, a not-for-profit environmental research organization based in Washington. A major focus of the Center's work is the impact of agriculture and agricultural policy, including appropriations policy, on the environment, human health, natural resource management, and the rural economy.

Today's Testimony

In conveying our views on H.R. 1440 today, we wish to associate ourselves with the excellent testimony presented to the Subcommittee on April 1, 1993, by Robbin S. Marks, Senior Program Associate, on behalf of the Natural Resources Defense Council (NRDC). Our testimony will elaborate on and reinforce many of Ms. Marks' key points.

Comprehensive Planning

The findings section sets forth the underlying rationale for H.R. 1440. We suggest that the following points be considered in refining the legislation.

First, for the most part, agricultural land users are "required" to develop and implement conservation and environmental plans by federal agencies *if they voluntarily participate in any of numerous programs that either compensate producers for conservation practices, or if plans are*

¹Testimony presented to the Subcommittee on Environment, Credit, and Rural Development, House Agriculture Committee, April 21, 1993.

required under the Food Security Act's resource compliance provisions. In the latter case, as NRDC noted, producers must obtain and follow approved conservation plans in order to remain eligible for program benefits.

Second, there are indeed at least a dozen programs within USDA that provide for the development of such plans. However, those plans do not always conflict, since they often affect different farm resources or serve different conservation goals. Plans for wetland restoration, for example, would have modest impact on highly erodible lands that are not adjacent to the wetlands area. As a practical matter, we would not expect to see a great deal of difference for many farms and conservation programs between the comprehensive plans contemplated in H.R. 1440 and the existing farm files, which might contain a Conservation Reserve Program (CRP) contract, a highly erodible land (HEL) plan, and technical notes for an ACP cost-share practice on one or more fields. I have reviewed hundreds of such farm files over the years, and in most cases where confusion exists, it is the result of unclear specifications in each component of one of the plans, and not because multiple plans have been prepared. Except where real and legitimate conflicts arise, such as plans that require erosion control practices that may conflict with water quality objectives or practices, we question the need for wholesale conversion of the existing complement of farm plans to a single, comprehensive plan.

I urge caution, and consideration of the history of planning in the agency, before devising a new and ambitious conservation planning mandate for the Soil Conservation Service. As I noted in a report that I prepared for the American Farmland Trust nearly a decade ago, in advance of the 1985 farm bill debate:

"Planning activities loom large and controversial in SCS technical assistance for all types of resource problems. According to GAO, 'SCS spent \$50 million to prepare or revise 83,180 (farm) plans, for an average of \$597 per plan. This effort required the equivalent of about 2,300 staff years,' at that time about 28 percent of SCS's permanent, full-time staff years assigned for technical assistance."²

In my review for AFT, I noted that elaborate, comprehensive "whole-farm" conservation plans were a tradition in SCS up until the early 1980s.

"The amount of effort devoted to planning within SCS has been a point of dispute since the 1930s. Under ACP, cost sharing applicants are not required to obtain a comprehensive farm plan

²*Soil Conservation in America: What Do We Have to Lose?* American Farmland Trust. 1984. SCS planning is discussed on page 70 et. seq.

from SCS. This difference in approach has been a source of friction between SCS and ASCS for many years....For many years the Extension Service also generally opposed SCS planning activities. 'If SCS carried its whole farm plan to its logical conclusion, it got into such matters as livestock numbers, feeding programs, farm incomes and expenses, and the like.' Yet SCS has rather steadfastly maintained that conservation done piecemeal could be worse than no conservation at all."³

A great deal of SCS planning produced no conservation results whatsoever; indeed, many students of the agency, myself included, expressed the concern that the plans themselves became the end, not the means, of technical assistance. As I noted in the AFT report, a 1975 survey of 3,000 SCS line officers revealed that "the backlog of conservation plans will take SCS 57 years to revise at today's level of planning. The average date of preparation or revision on a plan in district files is 1963." I also noted that about 86 percent of the SCS survey respondents were unable to perform adequate follow-up on plans already prepared.

In the late 1970s, the agency opted to streamline the procedures for conservation planning to reflect the recommendations of GAO and its own internal task force. After 1978, SCS decided to prepare traditional, whole-farm plans, but in general plans were to be prepared to deal with specific problems. As I noted in 1984, plans "are much less elaborate than those of a decade ago. Moreover, the emphasis has gradually shifted away from engineering types of practices, which lent themselves to the development of detailed, long-term planning documents, and toward tillage, residue and other crop management practices requiring little or no formal planning."⁴ Clearly, this is the direction the agency has continued to follow in the face of the enormous planning requirements associated with the 1985 Food Security Act.

In our view, comprehensive plans do have their place, but they must be developed only when comprehensive plans are needed to achieve the resource conservation and environmental objectives of real, working programs at the federal, state or local level. H.R. 1440's intent clearly is to reduce the amount of unnecessary or conflicting planning that hampers conservation actions by farmers and the objectives of conservation programs. Accordingly, where conflicting plans arise, we recommend an approach similar to that adopted by Congress in the 1990 Farm Bill's Water Quality Incentives Program. Section 1238C provides for the development of field office technical guidance that is local, farm specific, and that complements conservation compliance plans.

³*Ibid.*, p. 70.

⁴*Ibid.*, p. 71.

Liability Protection, Compliance, Exemptions and Waivers

Like NRDC and for the reasons stated in their testimony, we oppose the bill's provisions that would exempt farmers from conservation and environmental requirements as a result of implementing plans that are to be developed by the SCS. Conservation and environmental requirements encompass a multitude of independently-written laws, and exemption through an SCS plan and plan implementation as determined by SCS, is unacceptable. We believe that shifting such powers to SCS need not be a requirement to improving and rationalizing the planning process or the operation of most USDA programs. Moreover, we continue to have concerns about the SCS role in implementation of sodbuster, swamplibuster and conservation compliance.

For these purposes, we again suggest the model adopted for the Water Quality Incentives Program in the 1990 Farm Bill, which provides that SCS develop water quality plans to assist producers in compliance with State and Federal environmental laws and to enhance the environment. This wording gives SCS a lead role in developing rational, comprehensive plans, without raising very serious conflicts of jurisdiction, authority, and standard-setting. The 1990 law further stipulates that water quality protection plans include the timing and sequence of practices that will assist producers in complying with State and Federal environmental laws, taking into consideration schedules that may be established under those laws.

Conclusions

H.R. 1440 represents an important step in developing the technical foundation for the next evolution of agricultural policy, in which federal assistance to the sector would become much more strongly linked to resource conservation and environmental quality. We look forward to working with you, Mr. Chairman, and with the rest of the subcommittee in developing the concepts in the bill.

Thank you for this opportunity to testify.

(Attachment follows:)

COUNTDOWN TO COMPLIANCE

implementation of the
resource conservation
requirements of federal
farm law

KENNETH A. COOK

ANDREW B. ART

CENTER FOR
RESOURCE ECONOMICS

Acknowledgments

Andrew Art was the principal analyst at the Center for this report. He identified and compiled the data, and conceived and executed most of the analyses reported herein. Ken Cook, vice president for policy at CRE, was the primary author. Chris Campbell, data management specialist at the Center, assisted in database development and analysis. Molly Evans, research assistant, prepared many of the tables, copyedited the report, and provided overall desktop publishing expertise for the project. We are indebted to CRE analyst Wendy Hoffman for her proofreading skills. Eileen Gannon gave us technical assistance and advice that enabled us to print the report. Special thanks to Mick Schnepf for spectacular cover art on short notice.

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Contents

Executive Summary.....	i
Introduction.....	1
Summary of the Inspector General's 1991 Audit	2
Part 1. Analysis of SCS Status Reviews.....	3
Background	3
About Status Reviews	3
National Summary.....	4
SCS Condition Determinations in 1991 and 1992.....	6
Comparison of Field Office and State Reviews in 1992	8
State-by-State Status Review Results, 1991 and 1992	10
State-by-State Quality Review Results, 1991 and 1992.....	11
Improvements in Status Reviews and Evaluation for 1993.....	13
Part 2. ASCS Benefits Denied, 1986 to Present.....	14
State Totals for HEL and Wetlands Violations, 1986 to Present	16
Benefits Lost for HEL Violations	17
Benefits Lost for Wetlands Conservation Violations.....	19
ASCS Benefits Denied and Total Payments by State, 1991.....	21
1991 SCS and ASCS Data Compared	24
Part 3. Analysis of OIG Audit Counties	26
Analysis of Variances and Conditions Granted by SCS.....	28
SCS and ASCS Determinations in OIG Audit Counties, 1991.....	30
Part 4. Conservation Compliance Success Stories	32
Educating Arkansas Cotton Farmers On Residue Management	32
Wake Up Calls in North Carolina	33
For One North Dakota Renter, "Until FSA, nothing was done..."	34
In Missouri, Aggressive Outreach, Firm Warnings and Credit Where Due	34
Inter-Agency Cooperation in Illinois	35
Progress on the Texas High Plains	36
Success Stories in Iowa.....	36

Executive Summary

This report analyzes the most recent data that have been compiled by the Soil Conservation Service and Agricultural Stabilization Service of USDA regarding implementation of the resource conservation provisions of federal farm law. The report concludes that a very small number of U.S. farmers are being reported by SCS for failure to implement soil conservation plans, and an even smaller number are denied USDA benefits as a result of noncompliance. The report recommends a dramatic increase in compliance monitoring, an "emergency" evaluation effort to determine the conservation impacts of the conservation compliance policy, and additional controls to ensure that farmers in violation of FSA policies are denied benefits.

SCS Data Highlights. Analysis of SCS status review "spot checks" for over 97,000 tracts of highly erodible land (HEL) in 1992 reveals that a total of 2,494 HEL tracts were determined to be not actively applying conservation plans by SCS field offices in 1992, 1,340 more tracts than were determined to be out of compliance in 1991. The percentage found not actively applying changed little: 2.5 percent in 1992 compared to 1.6 percent in 1991. We calculated that in 1992, 73 percent of the counties with status reviews (1,974) reported all tracts actively applying. In 1991, by comparison, 81 percent of the counties with status reviews (2,169) reported 100 percent of the tracts actively applying. Kansas lead all states in the number (though not percent) of tracts determined not actively applying in 1992 with 283. Kansas also had the largest absolute increase in the number of tracts determined not actively applied in 1992 compared to 1991 (+257), followed by Indiana (+194), Iowa (+174), Tennessee (+111), and Illinois and North Carolina (+102 each). SCS determined that 10,454 (11.5 percent) of actively applied determinations in 1992 resulted because a "substitute conservation practice" was applied which achieved the planned erosion reduction levels. Only 1,958 such conditions were granted (2.8 percent of actively applied determinations) in 1991. Over half of all the substitute practice determinations nationwide (5,801) were made in the state of Kansas.

ASCS Data Highlights. A very tiny fraction of American farms have been found in violation of the resource compliance provisions of federal farm law since 1986. A minuscule portion of the total benefits paid to farmers have been denied as a result of those violations. Moreover, nearly half of the benefits initially denied farmers for violations eventually were reinstated as a result of the ASCS appeals process. Only 2,499 farms have been denied farm program benefits since 1986 as a result of sodbuster and conservation compliance ("HEL violations"), or swambuster ("wetlands conservation violations"). A total of \$23.3 million dollars in farm benefits initially were denied as a result of all FSA conservation violations since 1986. However, nearly half (44.6 percent) of those benefits (\$10.4 million) subsequently were reinstated to producers as a result of appeals to ASCS. By comparison, USDA's Office of Inspector General estimated the dollar value of noncompliance for a 5 percent sample of FSA plans in one year (1991) and in only 10

states at \$20 million. In geographic terms, a total of 764 counties nationwide reported that at least some benefits were initially denied between 1986 and 1992. However, in half (381) of those counties *all* of the benefits denied subsequently were reinstated as a result of appeals.

Recommendations

- *SCS should increase its 1993 status review tracts to at least 60,000 in 1993, and should expand the program evaluation "case studies" from four states to ten. Independent, outside experts within the Agricultural Research Service, universities, the Environmental Protection Agency, and state agriculture and resource agencies should be involved to the maximum extent possible.*
- *The Clinton Administration should immediately and intensively review the administrative record for all FSA violations in which all benefits have been restored to producers, in particular for HEL violations since 1990.*
- *USDA's systems for tracking FSA violations and appeals need a swift and major overhaul that will explain any past discrepancies and eliminate confusion in the future.*
- *State -level status reviews that determine tracts not actively applying should be reported to ASCS for noncompliance, unless field office reviews clearly demonstrate the tract's conservation plan was actively applied.*
- *In light of the USDA Inspector General's findings in 1991, we recommend that SCS re-evaluate immediately the status of the 21 tracts the Inspector General found out of compliance in 1991, along with other tracts OIG may consider problematic as a result of its audit.*
- *USDA's Inspector General should revisit all or many of the same counties for a full audit, in order to evaluate changes, improvements, or persistent problems in SCS procedures (plan revision, status review scheduling, etc.) since 1991.*
- *SCS National Headquarters should request that public affairs and information officers in each state submit a brief summary of activities that have successfully promoted conservation compliance in the state, and a series of farmer success stories to illustrate progress in implementing the law.*

(The complete report is held in the committee files.)



AMERICAN
SOCIETY OF AGRONOMY

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**STATEMENT ON H.R. 1440
BY DR. ROBERT F BARNES
EXECUTIVE VICE PRESIDENT
AMERICAN SOCIETY OF AGRONOMY**

Mr. Chairman, members of the committee, I am Robert F Barnes, Executive Vice President of the American Society of Agronomy, Crop Science Society and Soil Science Society of America. The three societies have a membership of over 12,000, working in crops, soils, and environmental research and as applied professionals in these three areas. Each year our members publish approximately 800 peer reviewed articles in our six journals. We also publish books, conduct meetings to facilitate scientific exchange, and sponsor two congressional fellows. The American Society of Agronomy also provides, as a membership service, a certification registry for professionals in soil and plant sciences.

On behalf of myself and the tri-societies, I'd like to thank you Mr. Chairman for the opportunity to comment on HR 1440 and provide information about the Certified Crop Adviser program. We believe the CCA program can improve the quality and consistency of information to farmers. We feel farmers will need access to technical information from many sources to develop management plans that conserve farm resources, maximize the efficiency of crop production inputs and maintain environmental quality.

Before I describe the CCA program in more detail I will briefly point out why we feel that HR 1440 is such important legislation. First, we commend the bill for attempting to consolidate the farm soil, water and environmental plans in one USDA agency, the Soil Conservation Service. We believe that SCS, working with its sister agencies Extension, ASCS, CSRS, and ARS, can coordinate the development of the whole farm plan. Because of the site specific nature of these plans, the land grant colleges of agriculture and state agricultural experiment stations also must play a role in developing technical information for setting standards and providing educational opportunities. The whole farm plan must have clear objectives and educational materials to support these objectives. A partnership between USDA, the colleges of agriculture, state extension services, and the state experiment stations is necessary to supply these needs.

We also support the bill's focus on site specific solutions to conservation, water quality, and agricultural non point source pollution. The diversity of American agriculture makes this a logical approach for developing conservation plans.

Most importantly, we applaud your leadership Mr. Chairman for providing the framework in HR 1440 for agriculture to address its environmental challenges. American agriculture has a responsibility to develop agricultural systems that are productive, efficient and protective of our soil and water resources. We believe that the critics of agriculture feel that the agricultural community—from the researcher to the farmer—is not capable of providing this stewardship. HR 1440 can be hard evidence

that the agricultural public and private sectors can work together to meet these challenges.

It is this spirit of cooperation that has driven the development of the CCA program. To meet the goal of providing farmers with a consistent source of information, ASA has worked with USDA, agribusiness, independent crop consultants and universities to develop a voluntary program to certify the knowledge, skills and abilities of crop advisers.

Certification programs can be used in different ways. One way is to try and improve the performance of a specific task, such as the Pesticide Applicator program. However, a certification program can also be the cornerstone of building a profession that can provide a wide range of services to farmers. By developing professionalism in agriculture we also have a powerful tool to gain the public's trust of the agricultural community as stewards of the land.

The CCA program, we believe, is a first step toward developing a professional track for agriculture. The certification standards are set so the applicants demonstrate they understand the basics of soils and soil fertility, soil and water management, pest management and crop growth and development.

The program is administered by state/regional boards with ASA acting as the managing partner. A state/regional board must have representatives from the state departments of agriculture and the environment, from extension, from SCS, and from agribusiness. The Board is responsible for administering the required national and state exams, reviewing credentials, and enforcing the code of ethics.

The role of ASA is to ensure the CCA program continues its step-by-step development as a profession that can best serve the needs of farmers. We understand that the standards of 1993 will have to change as the technology changes and as the challenges that confront farmers change. These changes can be made effectively because the CCA program is a true partnership between industry, state and federal government and universities. We believe that the necessary changes will occur because each party has voice in the continued development of the CCA program and a stake in the success of this program meeting the needs of farmers.

To keep the program on track, we have formed a National Coordinating Council that has a representative from each state/regional board, and at large representation from USDA, EPA and non government organizations. The National Coordinating Council will set the policy for CCA as well as oversee the implementation of the program.

To date, we have implemented the CCA program in seven states and 790 applicants have taken the first exam. The next exam will be offered in August, and we expect that 15 states will participate. Once certified, registrants will be required to participate in a minimum of 30 hours of training per year. Training credits will be audited by each CCA State/Regional Board.

We hope that as you continue to debate HR 1440 you will consider the impact of a voluntary program like CCA. Farmers will need assistance from all sectors public and private developing the whole farm plans. When you consider that my home state of Wisconsin has over 30,000 family dairy farms; one government agency alone would be overburdened to provide the level of assistance that would be needed to write, implement and evaluate these plans. We believe that individuals in the private sector who enter professional development programs such as CCA can be a valuable resource in both writing and implementing the plans. The public sector has a responsibility to process, evaluate and approve plans in a timely manner to ensure that sound management practices can be put in place which meet the objectives of the plan. The certified crop advisers can be a tremendous asset to balance the work load between the private and public sectors ensuring that farmers have the timely assistance needed.

The private sector, whether agribusiness or private consultants, because of their day-to-day involvement with a farmer's operation, are well positioned to assist farmers in choosing site specific management practices. This is evidenced by states such as Maryland using individuals from the private sector to write nutrient management plans that have passed the state's nutrient management course. We believe that in a similar fashion, CCA registrants may assist farmers in developing and implementing the requirements of the whole farm plan.

Our understanding of HR 1440 is that SCS has priority for developing single comprehensive plans. We believe clarification is needed so that whole farm plans can be written by any qualified individual such as the producer, consultant, extension agent or an agribusiness representative. Programs such as CCA or other certification programs can be used to identify qualified individuals.

Thank you for allowing me to represent ASA today before your committee. With the chairman's permission I would like to offer for the record the information regarding the CCA program and a letter of support for the CCA program from a number of farm state Senators. We want to thank you for the leadership you are providing agriculture in addressing the environmental challenges in front of us. We sincerely believe that voluntary programs such as CCA can make a difference in helping farmers accomplish our shared goal of preserving our soil and water resources.

I would be happy to answer any questions at the appropriate time.

(Attachments follow:)

**AMERICAN
SOCIETY OF AGRONOMY**

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CCA Background

The Certified Crop Adviser (CCA) program is a certification program developed by the American Society of Agronomy (ASA) under the auspices of the American Registry of Certified Professionals in Agronomy, Crops, and Soils (ARCPACS) to improve the quality and consistency of information farmers receive from crop input advisers. The program is open to any qualified individual who makes nutrient, pest or environmental recommendations to farmers, whether in private practice, government, or industry. The program's goal is to help agriculture address environmental issues such as water quality, soil loss and integrated pest management.

Each applicant for certification must present proof of education and experience, pass an exam, and abide by a code of ethics.

Dr. Dennis Keeney, President of the American Society of Agronomy, reports that 792 applicants took the first test administered on February 5, 1993 in seven states—California, Illinois, Missouri, Nebraska, Minnesota, North Carolina and Kansas. The second test will be given in August in at least 20 states.

The CCA program was developed by an ASA Steering Committee with help from private consultants, government, industry and universities. National standards established by the program will be administered in each state by a state board of directors appointed by ASA. The state boards include representatives from state agriculture and environmental agencies, Extension Service, Soil Conservation Service, agribusiness, farm organizations and others. The national guidelines used by the board are flexible so it can tailor the CCA program to fit existing state regulatory programs.

Responsibilities of the state board include reviewing the credentials of applicants and preparing the state exam that is administered in conjunction with the national exam. Dr. Keeney said that ASA is using state boards to administer the program to mirror other successful certification programs such as nursing, accounting, and engineering. The state boards are key, he said, because it is the state board members that best know the needs and areas of expertise applicants should have in their state.

The ASA is responsible for overseeing the standards and the national exam. ASA contracted with Educational Testing Service as a test construction consultant to ensure the CCA exam is educationally sound. Also, a national coordinating council has been formed to oversee the program. Council membership includes a representative from each CCA state board, EPA, USDA, and other environmental non-government organizations.

Dr. Keeney said the program is a tangible step toward solutions to agricultural environmental problems, made possible by the cooperation of the public and private sectors.

For more information, contact Thomas J. Hall at 608/273-8080 or Dennis R. Keeney at 515/294-8066.

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United States Senate

COMMITTEE ON
AGRICULTURE, NUTRITION, AND FORESTRY
WASHINGTON, DC 20510-4000

June 25, 1992

The Honorable Edward R. Madigan
Secretary of Agriculture
Washington D.C., 20250

Dear Secretary Madigan:

We are writing to express our strong support for the Certified Crop Advisors program, which is being developed by the American Society of Agronomy in partnership with many of the agricultural states. This is an important program based on voluntary participation that is designed to increase the level of professionalism among people providing agronomic advice and assistance to farmers.

We feel it is crucial that this country develop the capacity to improve the quality of the day-to-day agronomic information supplied to farmers. This is necessary to ensure the proper management of agricultural inputs and the most profitable farms possible. We must achieve this goal to ensure that agriculture is actively seeking to reduce the potential for non-point source contamination, while at the same time promoting a strong and vital industry.

To reach this goal, the American Society of Agronomy has been working to establish a Certified Crop Advisors program. The work, conducted in cooperation with the Soil Conservation Service, the Extension Service at the federal and state level; agribusiness associations, state and federal environmental agencies, land grant universities, consultant groups and others, has involved the development of a national test as well as state specific tests. An applicant with work experience and/or training and who passes the national test and the test specific for their state will have demonstrated a level of proficiency in agronomic matters sufficient to meet the professional standards of the Society. The test is being developed in cooperation with the Educational Testing Service, which has developed the exams used in the certification process for the professional engineering society in this country, as well as the college entrance Standardized Aptitude Test (SAT).

It is significant that this program is being undertaken by an entity outside the government. It is a response to a definite need in the field to improve the quality of information reaching farmers and the level of professionalism in the industry. Receiving certification is entirely voluntary - all persons wishing to take this

exam may do so, and no one will be required to take it. We anticipate that the private sector will also respond to the development of this program by offering training programs designed specifically for those seeking to pass the exam.

At the same time, the American Society of Agronomy needs some assistance in the development of the national and state-level tests. The amounts needed are relatively small, and we believe the Department could likely provide what is needed from discretionary funds available to the Department.

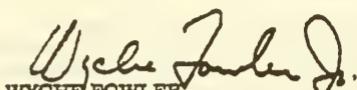
In addition to this letter to you, we have also written to the Senate Subcommittee on Agricultural Appropriations asking that the appropriations bill include report language expressing support for the Certified Crop Advisor program. We believe this program should meet the highest professional standards, and should be open to all qualified applicants, including private crop consultants, USDA personnel, agri-chemical and fertilizer retailers, and agricultural producers. We have requested that the report language direct the Department to provide the American Society of Agronomy with sufficient discretionary funds to get the exams fully underway and finalized.

Thank you in advance for your attention to this matter. We look forward to working with you in the future to make sure this important and innovative program fulfills its promise of helping both the farmer and the environment.

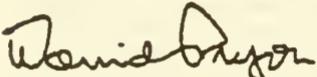
Sincerely,

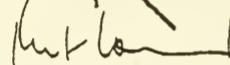

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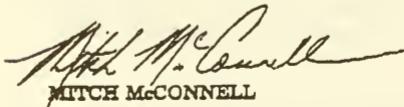

PATRICK LEAHY

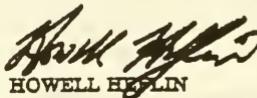

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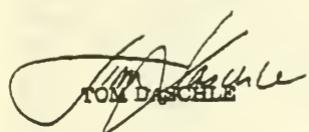

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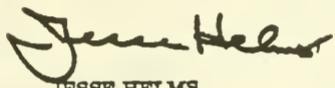

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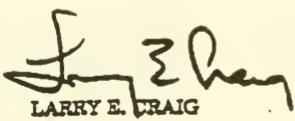
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CCA PROGRAM PARTICIPANTS



B = CCA Board in place

* = Board expected to be in place August 1993

Certification is a standard of excellence used in many professions, including law, accounting and engineering. With the Certified Crop Adviser (CCA) program, you can demonstrate your valuable agronomic expertise to the farmers you advise.

Following are some of the most commonly asked questions about the CCA program and sample test questions. If you need additional information on becoming a CCA, please return the enclosed card or contact your state board representative.

CERTIFIED CROP ADVISER

Q What is the Certified Crop Adviser (CCA) program?

A CCA is designed to establish base standards of knowledge for individuals who advise growers on crop management and production inputs. It's a way for our industry to demonstrate the knowledge and skills necessary to help growers produce economical and environmentally sound crops.

Q Is certification mandatory?

A The CCA program is a voluntary effort to establish base standards of knowledge, skills and abilities for crop advising. Participating in the CCA program is a positive step for both you and your industry.

Meeting The Challenge



Q What are the benefits of certification?

A Many professions use certification to promote a high degree of professionalism and instill public trust. Take for example, accounting. Think how much more comfortable you feel working with an accountant who is a Certified Public Accountant (CPA). That's the expectation your customers will have of a Certified Crop Adviser, as well.

Q Why is a state board necessary?

A The CCA State Boards are needed to provide direct linkages between the registrants and state agencies which will have oversight of agricultural environmental compliance.

Q Who is behind this program?

A The CCA program is being coordinated by the American Registry of Certified Professionals in Agronomy, Crops and Soils (ARCPACS)—a membership service of the American Society of Agronomy. Certification of CCA credentials and development of CCA state exam questions are being handled by state boards composed of representatives from agribusiness, agricultural consulting, universities and government agencies.

Q What are the requirements for certification?

A First, you must have two years of crop production experience and a B.S. degree in agronomy. OR four years of post high school experience. An applicant must also pass a CCA state and national exam plus sign a code of ethics.

Q What will the national CCA exam cover?

A Four areas are covered in the exam:

- soils and soil fertility;
- soil and water management;
- plant growth and development;
- pest management (weeds, insects and diseases).

Following are some sample test questions:

1. A favorable pH for a crop ensures that:
 - a. fertilizer nutrients will be available to the crop
 - b. mineralization will be kept at a minimum
 - c. soil organic matter will be maintained
 - d. groundwater will not become contaminated
2. When microbes immobilize nitrogen, it becomes:
 - a. leached
 - b. unavailable to plants
 - c. toxic to plants
 - d. intercepted by roots

3. When nutrients are transported into the plant root in water that the plant is taking up, this is called:

- diffusion
- mineralization
- nitrification
- mass flow

4. The bulk density of soil may directly affect productivity of soil by influencing:

- organic matter content
- soil texture
- percentage of calcium in soil
- soil pore space

Q How can I prepare for the exam?

A Materials to review the agronomic information covered in the exam are available from many excellent sources, including your local Extension Service, colleges and universities offering agronomy courses and the Potash and Phosphate Institute (PPI). In addition, many ag supply companies offer company-sponsored training programs.

Q When will the exam be offered?

A The dates and locations will be determined by state boards. For information on your state, contact your state board representative or return the enclosed card.

Yes, I'm interested in becoming a Certified Crop Adviser. Please send me more information and an application form.

Name _____	Business Name _____
Address _____	City _____
State _____	Zip _____
Phone _____	

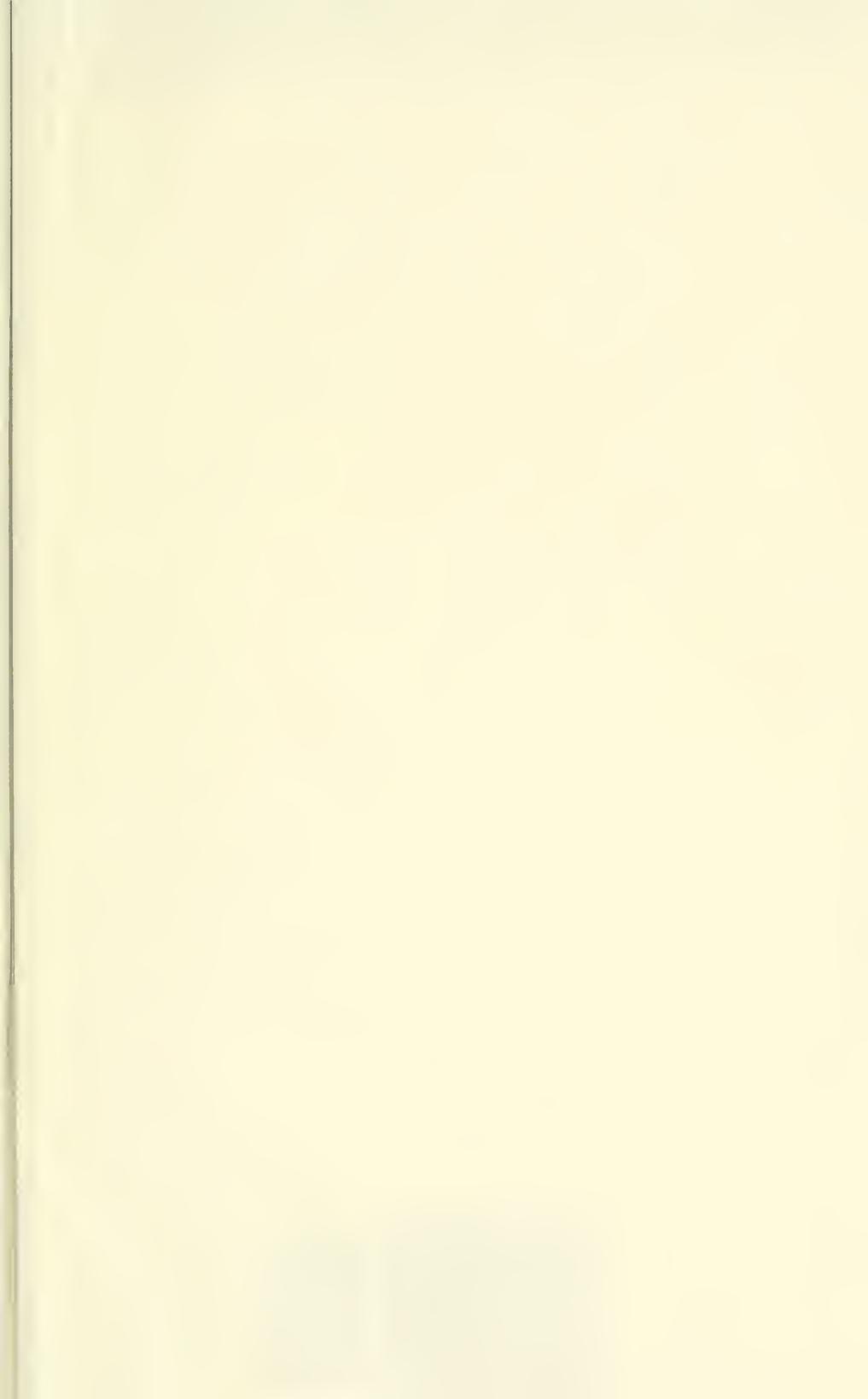




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